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Federal Register

Friday
May 31, 1985

Selected Subjects

Animal Diseases
Animal and Plant Health Inspection Service

Aviation Safety
Federal Aviation Administration

Consumer Protection
Consumer Product Safety Commission

Exports
International Trade Administration

Fisheries
National Oceanic and Atmospheric Administration

Government Procurement
Defense Department
General Services Administration
Health and Human Services Department
National Aeronautics and Space Administration

Health Insurance
Defense Department

Marketing Agreements
Agricultural Marketing Service

Medicaid
Health Care Financing Administration

Natural Gas
Federal Energy Regulatory Commission

Postal Service
Postal Service

CONTINUED INSIDE

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Selected Subjects

Prescription Drugs
Drug Enforcement Administration

Radio Broadcasting
Federal Communications Commission

Vocational Education
Veterans Administration

Waste Treatment and Disposal
Environmental Protection Agency

Contents

Federal Register
Vol. 50, No. 105
Friday, May 31, 1985

The President
EXECUTIVE ORDERS
23105 United States-India Fund for Cultural, Educational, and Scientific Cooperation, delegation of functions (EO 12517)

Executive Agencies

Administrative Conference of United States
NOTICES
Meetings:
23169 Plenary Session

Agricultural Marketing Service
RULES
23107 Cranberries grown in Massachusetts et al.
23261 Lemons grown in California and Arizona
NOTICES
Meetings:
23169 Flue-Cured Tobacco Advisory Committee

Agricultural Stabilization and Conservation Service
NOTICES
Feed grain donations:
23265 Blackfeet Indian Reservation, MT
23265 Fort Belknap Indian Reservation, MT
23265 Fort Berthold Indian Reservation, ND
23265 Fort Peck Indian Reservation, MT
23265 Rocky Boys Indian Reservation, MT

Agriculture Department
See Agricultural Marketing Service; Agricultural Stabilization and Conservation Service; Animal and Plant Health Inspection Service; Forest Service.

Animal and Plant Health Inspection Service
PROPOSED RULES
Interstate transportation of animals and animal products (quarantine):
23137 Equine infectious anemia; official tests; approval denial or withdrawal of laboratories; procedures
23138 Pseudorabies; extension of time

Blind and Other Severely Handicapped, Committee for Purchase from
NOTICES
23172 Agency information collection activities under OMB review; correction
23172 Procurement list, 1985; additions and deletions; correction

Bonneville Power Administration
NOTICES
23173 Fish and wildlife consultation procedures

Commerce Department
See International Trade Administration; National Oceanic and Atmospheric Administration; Patent and Trademark Office.

Consumer Product Safety Commission
PROPOSED RULES
23139 All-terrain vehicles; injury risk; advance notice

Defense Department
See also Defense Logistics Agency.
RULES
Civilian health and medical program of uniformed services (CHAMPUS):
23120 Nonavailability statement requirements; exceptions for payments that supplement primary coverage provided by other insurance plans or programs; final rule and request for comments
23121 Vision care benefit; final rule and request for comments
PROPOSED RULES
Federal Acquisition Regulation (FAR):
23157 Contracts, voiding and rescinding
NOTICES
Meetings:
23173 Electron Devices Advisory Group
23173 Science Board
23173 Science Board task forces

Defense Logistics Agency
NOTICES
23173 Agency information collection activities under OMB review

Drug Enforcement Administration
RULES
Schedules of controlled substances:
23118 3,4-Methylenedioxymethamphetamine
PROPOSED RULES
Schedules of controlled substances:
23144 Nalmefene
NOTICES
Registration applications, etc.; controlled substances:
23203 B. Ruppe Drugstore, Inc.; revocation
23203 Ganes Chemicals Inc.
23202 Sigma Chemical Co.

Employment Standards Administration
NOTICES
23242 Minimum wages for Federal and federally-assisted construction; general wage determination decisions, modifications, and supersedeas decisions (AL, CO, DE, IL, LA, MD, MI, NV, PA, RI, VA, and WI)

Energy Department
See also Bonneville Power Administration; Federal Energy Regulatory Commission.
NOTICES
Meetings:
23184 National Petroleum Council; date changed

Environmental Protection Agency
PROPOSED RULES
Waste management, solid:
23250 Land disposal restrictions, schedule

NOTICES
Environmental statements; availability, etc.:
Agency statements—
23188 Comment availability
23188 Weekly receipts
Pesticide, food, and feed additive petitions:
23185 Mobay Chemical Corp. et al.; correction
Pesticides; emergency exemption applications:
23188 2-Methoxy-N-(2-oxo-1,3-oxazolin-3-yl)-acet-2',6'-xylidine; correction
Pesticides; experimental use permit applications:
23184 ICI Americas, Inc., et al.; correction
Toxic and hazardous substances control:
23185–23187 Premanufacture notices receipts (2 documents)
Water pollution; effluent guidelines for point source categories:
23185 Simpson Paper Co. et al.; denial of variance; comment period reopened

Equal Employment Opportunity Commission
NOTICES
23237 Meetings; Sunshine Act (2 documents)

Federal Aviation Administration
RULES
Airworthiness directives:
23108 Garrett
23109 Rolls-Royce Ltd.

Federal Communications Commission
RULES
Common carrier services:
23125 Public land mobile services; Mobile, AL air-ground stations
PROPOSED RULES
Radio broadcasting:
23150 AM stations; technical and operational regulations
NOTICES
Common carrier services:
23189 Access charge and divestiture related tariffs; investigation; local exchange carriers

Federal Deposit Insurance Corporation
NOTICES
23237, 23238 Meetings; Sunshine Act (5 documents)

Federal Energy Regulatory Commission
RULES
Natural Gas Policy Act:
23112 Incremental pricing; acquisition cost thresholds
NOTICES
Electric rate and corporate regulation filings:
23181 Consumers Power Co. et al.
Hearings, etc.:
23182 Oasis Pipe Line Co. et al.
23183 Transcontinental Gas Pipe Line Corp.
23184 Washington Water Power Co.
23184 Western Transmission Corp.
Natural gas certificate filings:
23180 ANR Pipeline Co. et al.
Natural Gas Policy Act:
23183 Well category determinations, etc. (HNG Oil Co.)

Federal Home Loan Bank Board
NOTICES
Applications, etc.:
23194 Brunswick Federal Savings, F.A.
23193 Citizens Savings Bank, FSB
23193 Commercial Federal Savings Bank
23193 Hampton Co-operative Bank
23193 Lawrence Federal Savings, F.A.
23193 Metropolitan Savings & Loan Association
23238 Meetings; Sunshine Act

Federal Maritime Commission
NOTICES
23197 Agreements filed, etc.
Freight forwarder licenses:
23196 E.D.S. International Shipping Corp. et al.; revocations
23196 Interstate International, Inc., et al.
23238 Meetings; Sunshine Act
Shipping Act of 1984:
23194 Anti-rebate certification filing requirements; failure of licensed ocean freight forwarders to comply; investigation and hearing

Federal Reserve System
NOTICES
Bank holding company applications, etc.:
23197 Bankers Trust New York Corp. et al.
23197 Commonwealth Bancshares Corp. et al.
23198 J.P. Morgan & Co. Inc., et al.
23199 NEB Corp. et al.

Food and Drug Administration
RULES
Animal drugs, feeds, and related products:
23118 West Agro, Inc.; sponsor change; correction
Food additives:
23118 Adjuvants, production aids, and sanitizers; tetrakis[methylene(3,5-di-*tert*-butyl-4-hydroxyhydrocinnamate)]methane; correction

Forest Service
NOTICES
Meetings:
23169 Black Hills National Forest Grazing Advisory Board

General Services Administration
PROPOSED RULES
Federal Acquisition Regulation (FAR):
23157 Contracts, voiding and rescinding

Geological Survey
RULES
23113 State water research institute program

Health and Human Services Department
See also Food and Drug Administration; Health Care Financing Administration.
RULES
23126 Acquisition regulations; interim
PROPOSED RULES
Public assistance programs:
23147 Medicaid; adjustment of Federal share for uncashed or cancelled (voided) check
NOTICES
23199 Agency information collection activities under OMB review

Health Care Financing Administration
PROPOSED RULES
Medicaid:
23147 Checks, uncashed or cancelled; Federal share reimbursement

Interior Department
See Geological Survey; Land Management Bureau; Reclamation Bureau; Water Resources Research Office.

International Trade Administration
RULES
Export licensing:
23110 Commodities and technical data; policy clarifications
23111 Commodity control list; amendments
23111 Editorial amendments
NOTICES
23169 Antidumping; cost of production calculations subsidies; inquiry
23172 Export trade certificates of review
Scientific articles; duty free entry:
23171 University of Colorado et al.

Interstate Commerce Commission
NOTICES
Motor carriers:
23201 Aero Mayflower Transit Co.; predetermined price protection tariff item; hearing date change
Rail carriers:
23201, 23202 Waybill data; release for use (2 documents)
Railroad services abandonment:
23202 Atchison, Topeka & Santa Fe Railway Co.

Justice Department
See Drug Enforcement Administration; Juvenile Justice and Delinquency Prevention Office.

Juvenile Justice and Delinquency Prevention Office
NOTICES
Meetings:
23204 Coordinating Council

Labor Department
See Employment Standards Administration.

Land Management Bureau
RULES
Public land orders:
23124 Idaho; correction
PROPOSED RULES
Mineral leasing:
23150 Clarification and revision, etc.; extension of time
NOTICES
Alaska native claims selection:
23200 Chickaloon-Moose Creek Native Association, Inc.
Environmental statements; availability, etc.:
23201 Northwest area noxious weed control program
23200 Rio Blanco County, CO

Legal Services Corporation
NOTICES
Grant awards:
23204 Worcester County Bar Association et al.

National Aeronautics and Space Administration
PROPOSED RULES
Acquisition regulations:
23159 Progress payment rates
Federal Acquisition Regulation (FAR):
23157 Contracts, voiding and rescinding

National Highway Traffic Safety Administration
NOTICES
Motor vehicle defect proceedings; petitions, etc.:
23221 Morrison, Michael R., et al.

National Oceanic and Atmospheric Administration
PROPOSED RULES
Fishery conservation and management:
23159 Atlantic swordfish

Nuclear Regulatory Commission
PROPOSED RULES
Practice rules:
23138 Adjudications; disclosure or nondisclosure of information; special procedures for resolving conflicts; correction
NOTICES
Applications, etc.:
23207 University of Texas
Meetings:
23205–23207 Reactor Safeguards Advisory Committee (6 documents)

Pacific Northwest Electric Power and Conservation Planning Council
NOTICES
23239 Meetings; Sunshine Act

Patent and Trademark Office
RULES
Patent cases:
23122 Patent interference proceedings; correction

Postal Service
PROPOSED RULES
International Mail Manual; Express Mail Service:
23146 Panama

Reclamation Bureau
NOTICES
Environmental statements; availability, etc.:
23201 Truckee and Carson River Basins, Newlands Project, NV

Securities and Exchange Commission
NOTICES
Applications, etc.:
23210 AARP U.S. Government Money Market Trust et al.
23212 Association of Publicly Traded Investment Funds
23213 Comerica Bank Canada
23215 HOMAC Mortgage Securities Corp.
23219 Privatbanken A/S
23218 Consolidated Tape Association plan; amendments
23239 Meetings; Sunshine Act
Self-regulatory organizations; proposed rule changes:
23208 American Stock Exchange, Inc.
23217, 23218 Chicago Board Options Exchange, Inc. (2 documents)
23216 Midwest Stock Exchange, Inc.

Synthetic Fuels Corporation
NOTICES
23239 Meetings; Sunshine Act

Transportation Department
See Federal Aviation Administration; National Highway Traffic Safety Administration.

Treasury Department
NOTICES
Notes, Treasury:
23221 K–1990 series
Notes (foreign-targeted), Treasury:
23223 L–1990 series

United States Information Agency
NOTICES
Art objects, importation for exhibition:
23236 Boston Early Music Festival & Exhibition

Veterans Administration
PROPOSED RULES
Vocational rehabilitation and education:
23145 Vocational Rehabilitation and Counseling Service, authority delegation

Water Resources Research Office
RULES
23113 State water research institute program; CFR Chapter and Parts removed

---

Separate Parts in This Issue

Part II
23242 Department of Labor, Employment Standards Administration, Wage and Hour Division

Part III
23250 Environmental Protection Agency

Part IV
23261 Department of Agriculture, Agricultural Marketing Service

Part V
23265 Department of Agriculture, Agricultural Stabilization and Conservation Service

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Reader Aids
Additional information, including a list of public laws, telephone numbers, and finding aids, appears in the Reader Aids section at the end of this issue

CFR PARTS AFFECTED IN THIS ISSUE

A cumulative list of the parts affected this month can be found in the Reader Aids section at the end of this issue.

3 CFR
Executive Orders:
12517 23105
7 CFR
910 23261
929 23107
9 CFR
Proposed Rules:
75 23137
85 23138
10 CFR
Proposed Rules:
2 23138
14 CFR
39 (2 documents) 23108, 23109
15 CFR
371 23110
373 23111
379 23110
399 (2 documents) 23110, 23111
16 CFR
Proposed Rules:
Ch. II 23139
18 CFR
282 23112
Ch. IV 23113
21 CFR
178 23118
510 23118
1308 23118
Proposed Rules:
1308 23144
30 CFR
401 23113
32 CFR
199 (2 documents) 23120, 23121
37 CFR
1 23122
38 CFR
Proposed Rules:
21 23145
39 CFR
Proposed Rules:
10 23146
40 CFR
Proposed Rules:
268 23250
42 CFR
Proposed Rules:
430 23147
43 CFR
Public Land Order:
6605 23124
43 CFR
Proposed Rules:
3500 23150
3510 23150
3520 23150
3530 23150
3540 23150
3550 23150
3560 23150
3570 23150
3580 23150
45 CFR
Proposed Rules:
201 23147
47 CFR
22 23125
Proposed Rules:
73 23150
48 CFR
301 23126
304 23126
305 23126
306 23126
307 23126
313 23126
314 23126
315 23126
316 23126
319 23126
323 23126
332 23126
333 23126
337 23126
342 23126
352 23126
370 23126
Proposed Rules:
3 23157
1832 23159
1852 23159
50 CFR
Proposed Rules:
611 23159
630 23159

Federal Register
Vol. 50, No. 105
Friday, May 31, 1985

Presidential Documents

Title 3—

The President

Executive Order 12517 of May 29, 1985

Delegation Concerning the United States-India Fund for Cultural, Educational, and Scientific Cooperation

By the authority vested in me as President by the Constitution and statutes of the United States of America, including section 301 of Title 3 of the United States Code, and in order to delegate certain functions concerning the United States-India Fund for Cultural, Educational, and Scientific Cooperation to the Secretary of State, it is hereby ordered as follows:

Section 1. All functions vested in the President by the United States-India Fund for Cultural, Educational, and Scientific Cooperation Act (Title IX of Public Law 98–164, 97 Stat. 1051; "the Act") are delegated to the Secretary of State.

Sec. 2. India rupees provided to the President for purposes of Title IX of the Act and under Title III of the Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriation Act, 1985 (Public Law 98–411, 98 Stat. 1545) are allocated to the Secretary of the Treasury for investment to generate earnings for purposes of Title IX of the Act.

Ronald Reagan

THE WHITE HOUSE,
May 29, 1985.

[FR Doc. 85-13292
Filed 5-30-85; 11:50 am]
Billing code 3195-01-M

Rules and Regulations

Federal Register
Vol. 50, No. 105
Friday, May 31, 1985

This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect, most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.
The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each week.

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 929

Cranberries Grown in the States of Massachusetts, Rhode Island, Connecticut, New Jersey, Wisconsin, Michigan, Minnesota, Oregon, Washington, and Long Island in the State of New York; Amendment of Rules and Regulations

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: The final rule would increase the reserve base quantity for the 1984–85 crop year from the required minimum of 2.0 percent to 11.55 percent of the total base quantities currently issued to cranberry producers. The final rule is designed to update and expand base quantities for the benefit of growers. It is also intended to facilitate the appropriate and equitable operation of the cranberry marketing order with the establishment in the future of any marketable quantity and annual allotment.

EFFECTIVE DATE: May 31, 1985.

FOR FURTHER INFORMATION CONTACT: William J. Doyle, Chief, Fruit Branch, F&V, AMS, USDA, Washington, D.C. 20250, telephone 202–447–5975.

SUPPLEMENTARY INFORMATION: This final rule has been reviewed under Secretary's Memorandum 1512–1 and Executive Order 12291, and has been designated a "non-major" rule. William T. Manley, Deputy Administrator, Agricultural Marketing Service, has certified that this action will not have a significant economic impact on a substantial number of small entities.

Notice of the proposal to revise § 929.153 was published in April 1, 1985, **Federal Register** (50 FR 12812). The proposal provided interested persons the opportunity to comment on the proposal. No such comments were received.

The final rule is issued under amended marketing agreement and Order No. 929, as amended (7 CFR Part 929). The order regulates the handling of cranberries grown in the States of Massachusetts, Rhode Island, Connecticut, New Jersey, Wisconsin, Michigan, Minnesota, Oregon, Washington, and Long Island in the State of New York. The agreement and order are effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674). The action was recommended by the Cranberry Marketing Committee.

Each year prior to May 1, the committee considers its marketing policy for the coming season and estimates the marketable quantity. If the Secretary finds from such recommendation of the committee or from other available information that limiting the quantity of cranberries that may be purchased or handled on behalf of growers would tend to effectuate the declared policy of the act, the Secretary shall determine and establish the marketable quantity for that crop year. The marketable quantity shall be apportioned among growers by applying the allotment percentage to each grower's base quantity pursuant to § 929.48.

Such base quantity is issued to growers: (a) Based on their production during the period 1968–69 through 1973–74; (b) as a result of transfers of base quantities from other growers; or (c) as part of an annual reserve of at least two percent of the total base quantities. Such reserve shall be used for the issuance of base quantities to new producers and adjustments in base quantities for existing producers with 25 percent being made available for new producers and 75 percent available for adjustment for existing producers. Any unallocated portion of the 25 percent available to new producers may at the discretion of the committee be prorated among eligible existing producers on an equitable basis. Section 929.48 also provides that a condition for the continuing validity of a producer's base quantity is the production of cranberries in a proprietary capacity. If no bona fide effort is made to produce and sell cranberries thereunder for five consecutive seasons, commencing with the 1978–79 season, the base quantity may be reduced or declared invalid due to lack of use and cancelled at the end of the fifth season of nonproduction. The committee shall establish criteria, subject to approval by the Secretary, whereby the committee may determine whether a bona fide effort has been made to produce and sell cranberries produced on the producer's own acreage.

Section 929.153 implements § 929.48 of the order. It prescribes procedures governing the allocation of reserve base quantity to cranberry producers and establishes an annual base quantity reserve equal to two percent of the aggregate base quantities. Also, § 929.153 provides that the base quantity of a grower who has made no bona fide effort to produce and sell cranberries for five consecutive seasons, commencing with the 1978–79 season, may be declared invalid and cancelled at the end of the fifth season.

On February 20, 1985, the Cranberry Marketing Committee held its annual winter meeting to formulate its marketing policy for the 1984–85 crop. It determined that since demand exceeded supply, implementation of § 929.49 (i.e. the establishment of a marketable quantity and annual allotment) was not recommended. In order to update its base quantities in preparation for any future recommendation for such a marketable quantity, however, the committee determined that 2,951 barrels of base quantity were held by growers who had not produced cranberries on the corresponding acreage for the requisite five years and should be redistributed to growers requesting base from the annual base quantity reserve. The committee noted that cranberry sales were projected to increase and recommended that additional base be issued to all qualified new and existing growers to the full amount of such requests. All qualified new growers who applied for base quantities were granted them by the committee since such applications represented less than 25 percent of the 11.55 percent reserve.

Thus, the net effect of this final rule is

that there should be a total increase of base of 11.55 percent. Such an increase would make additional quantities of base quantity available to new and existing growers, and insures that base remain only with growers who are making a bona fide effort to produce cranberries. The change also would provide the appropriate updating of base quantities necessary for any future establishment of a marketable quantity and annual allotment. It is found that this final rule would tend to effectuate the declared policy of the act.

It is further found that upon good cause shown it is impracticable, unnecessary, and contrary to the public interest to postpone the effective date of this final rule until 30 days after publication in the **Federal Register** (5 U.S.C. 553) because it is appropriate that this final rule be established as soon as possible in order that base quantities may be issued to growers on a timely basis, and, thus, provide for the proper administration of the order. The provisions in the final rule are the same as those in a proposed rule which was published in the **Federal Register**, and which provided a 30-day comment period. It is found that this final rule will tend to effectuate the declared policy of the act.

List of Subjects in 7 CFR Part 929

Marketing agreements and orders, Cranberries, Massachusetts, Rhode Island, Connecticut, New Jersey, Wisconsin, Michigan, Minnesota, Oregon, Washington, New York.

1. The authority citation for 7 CFR Part 929 continues to read as follows:

Authority: (Secs. 1–19, 48 Stat. 31, as amended; 7 U.S.C. 601–674).

2. Section 929.153 (7 CFR Part 929) is amended by revising paragraph (a) to read as follows:

§ 929.153 Base quantity reserve.

(a) *Establishment.* An annual reserve base quantity equal to 2 percent of total base quantities is hereby established: *Provided,* that, for the 1984–85 crop year, the reserve base quantity shall be 2.38 percent, and for the 1985–86 crop year, the reserve base quantity shall be 11.55 percent.

* * * * *

Dated: May 28, 1985.

Thomas R. Clark,

Deputy Director, Fruit and Vegetable Division.

[FR Doc. 85–13149 Filed 5–30–85; 8:45 am]

BILLING CODE 3410–02–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 85–ANE–10; Amend. No. 39–5061]

Airworthiness Directives; Garrett Turbine Engine Co. Model ATF3–6–2C Turbofan Engines

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This action publishes in the **Federal Register** and makes effective to all persons an amendment adopting an new airworthiness directive (AD) which was previously made effective to all known U.S. owners and operators of certain Garrett Turbine Engine Company (GTEC) ATF3–6–2C turbofan engines by individual telegrams. The AD requires an initial and interim inspections as well as eventual modification of certain exhaust deflector liner and seal assemblies to assure that they are not loose and have not made contact with the turbine rotor. The AD is needed to prevent the detachment of the exhaust splitter labyrinth seal which could result in an uncontained engine failure.

DATES: Effective June 24, 1985, to all persons except those persons to whom it was made immediately effective by telegraphic AD (TAD) No. T85–04–51, issued March 1, 1985, which contained this amendment.

Compliance Schedule—As prescribed in the body of the AD

Incorporation by Reference—Approved by the Director of the **Federal Register** effective on June 24, 1985.

ADDRESSES: The applicable service bulletins (SBs) and maintenance manuals may be obtained from Garrett Turbine Engine Company, P.O. Box 5217 Phoenix, Arizona 85010; telephone (602) 231–1000.

A copy of each service document is contained in the Rules Docket, Federal Aviation Administration, New England Region, Office of the Regional Counsel, Attn: Docket No. 85–ANE–10, 12 New England Executive Park, Burlington, Massachusetts 01803, and may be examined weekdays, except Federal holidays, between 8:00 a.m. and 4:30 p.m.

FOR FURTHER INFORMATION CONTACT: Bill Moring, Aerospace Engineer, ANM–174W, Western Aircraft Certification Office, Northwest Mountain Region, P.O. Box 92007, Worldway Postal Center, Los Angeles, California 90009; telephone (213) 536–6382.

SUPPLEMENTARY INFORMATION: On March 1, 1985, TAD T85–04–51 was issued and made effective immediately to all known U.S. owners and operators of certain GTEC Model AT3–6–2C engines. The TAD required initial and interim inspections as well as eventual modification of certain exhaust deflector liner and seal assemblies. TAD action was necessary to prevent the exhaust deflector liner and seal assembly from coming in contact with the turbine rotor which could result in an uncontained engine failure.

Since it was found that immediate corrective action was required, notice and public procedure thereon were impracticable and contrary to public interest, and good cause existed to make the AD effective immediately by individual telegrams, issued March 1, 1985, to all known U.S. owners and operators of certain GTEC ATF–6–2C turbofan engines. These conditions still exist, and the AD is hereby published in the **Federal Register** as an amendment to § 39.13 of Part 39 of the Federal Aviation Regulations to make it effective to all persons.

Conclusion

The FAA has determined that this regulation is an emergency regulation that is not considered to be major under Executive Order 12291. It is impracticable for the agency to follow the procedures of Executive Order 12291 with respect to this rule since the rule must be issued immediately to correct an unsafe condition in aircraft. It has been further determined that this action involves an emergency regulation under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). If this action is subsequently determined to involve a significant/major regulation, a final regulatory evaluation or analysis, as appropriate, will be prepared and placed in the regulatory docket (otherwise, an evaluation or analysis is not required). A copy of it, when filed, may be obtained by contacting the person identified under the caption **"FOR FURTHER INFORMATION CONTACT".**

List of Subjects 14 CFR Part 39

Engines, Air transportation, Aircraft, Aviation safety, Incorporation by reference.

Adoption of the Amendment

PART 39—[AMENDED]

Accordingly, pursuant to the authority delegated to me by the Administrator, § 39.13 of Part 39 of the Federal Aviation

Regulations (14 CFR 39.13) is amended by adding the following new AD:

Garrett Turbine Engine Company (GTEC) (formerly AiResearch Manufacturing Company of Arizona): Applicable to all model ATF3-6-2C turbofan engines with exhaust deflector liner and seal assembly, Garrett Part Numbers 3001313-10 through -14, and not incorporating the bolted flange system specified in paragraph (d) of this AD.

Compliance is required as indicated unless already accomplished.

To prevent the possibility of an uncontained engine failure, accomplish the following:

(a) Within the next 25 operational hours after the effective date of this AD, visually inspect the stationary seal/sixth stage low pressure turbine rotor assembly area of all affected engines for evidence of seal/rotor contact and/or seal looseness as specified in section 2.A., "Accomplishment Instructions" of GTEC SB ATF3-A72-6113, dated February 25, 1985, or equivalent approved by the Manager, Western Aircraft Certification Office.

(b) Prior to the accumulation of an additional 75 hours in service after accomplishing the inspection in paragraph (a) above, or within 25 operational hours after the effective date of this AD, whichever comes later, and at intervals not to exceed 75 operational hours thereafter, visually inspect the stationary seal/sixth stage low pressure turbine rotor assembly area of all affected engines for evidence of seal/rotor contact and/or seal looseness as specified in the following GTEC Light Maintenance Manual revisions or equivalent approved by the Manager, Western Aircraft Certification Office:

Engine Model and Manual Reference
ATF3-6-2C
Light Maintenance Manual Report No. 72-00-52
Revision 7, dated January 31, 1985;
Temporary Revision No. 72-132, 72-00-00, Inspection, dated February 25, 1985;
Temporary Revision No. 72-133, 72-00-00, Inspection, dated February 25, 1985;
Temporary Revision No. 72-135, 72-00-00, Trouble Shooting, dated February 25, 1985;
Temporary Revision No. 72-136, 72-00-00, Trouble Shooting, dated February 25, 1985.

Note.—Periodic measurements of the engine interstage turbine temperature (ITT) are required to be recorded in accordance with an FAA approved revision to the limitations section of the flight manual of the airplane. ITT differences outside airplane flight manual acceptable limits required inspection of the stationary seal/sixth stage low pressure turbine rotor assembly area prior to next flight.

(c) Engines with unsuccessful inspection results found during the accomplishment of paragraphs (a) or (b) above are to be disassembled as required to inspect, modify, or replace exhaust deflector liner and seal assembly and sixth stage turbine rotor assembly prior to further flight.

(d) Upon removal of the sixth stage low pressure turbine rotor assembly from an affected engine for any reason or within 500 operational hours after the effective date of this AD, whichever comes first, incorporate the new exhaust deflector liner and seal assembly bolted flange system as specified in Section 2.A., "Accomplishment Instructions" of GTEC SB ATF3-72-6114 dated February 25, 1985, or equivalent approved by the Manager, Western Aircraft Certification Office.

Aircraft may be ferried in accordance with the provisions of Federal Aviation Regulations (FARs) § 21.197 and § 21.199 to a base where the AD can be accomplished.

Upon request, an equivalent means of compliance with the requirements of this AD may be approved by the Manager, Western Aircraft Certification Office, Northwest Mountain Region, P.O. Box 92007, Worldway Postal Center, Los Angeles, California 90009.

The manufacturer's specifications and procedures identified and described in this directive are incorporated herein and made a part thereof pursuant to 5 U.S.C. 552(a)(1). All persons affected by this directive who have not already received these documents from the manufacturer may obtain copies upon request to Garrett Turbine Engine Company, P.O. Box 5217, Phoenix, Arizona 85010; telephone (602) 231-1000. These documents also may be examined at the Office of the Regional Counsel, New England Region, FAA, 12 New England Executive Park, Burlington, Massachusetts 01803, weekdays, except Federal holidays, between 8:00 a.m. and 4:30 p.m.

This amendment becomes effective June 24, 1985, to all persons except those persons to whom it was made immediately effective by TAD T85-04-51, issued March 1, 1985, which contained this amendment.

(Secs. 313(a), 601, and 603, Federal Aviation Act of 1958, as amended (49 U.S.C. 1354(a), 1421, and 1423); 49 U.S.C. 106(g) (Revised, Pub. L. 97-449, January 12, 1983); 14 CFR 11.89)

Issued in Burlington, Massachusetts, on May 2, 1985.

Robert E. Whittington,

Director, New England Region.

[FR Doc. 13008 Filed 5-30-85; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 39

[Docket No. 84-ANE-14, Amdt 39-5063]

Airworthiness Directives; Rolls-Royce Limited RB211-22B and -524 Series Turbofan Engines

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD) which requires modification of the low pressure rotor location bearing area on Rolls-Royce RB211-22B and RB211-524 series turbofan engines in accordance with Rolls-Royce Mandatory Service Bulletin (SB) RB211-72-6847. The AD is needed to prevent possible internal oil fires caused by low pressure rotor location bearing failures which could result in an uncontained engine failure.

DATES: Effective—July 23, 1985.

Compliance schedule—As prescribed in the body of AD.

Incorporation by Reference—Approved by the Director of the **Federal Register** effective on July 23, 1985.

ADDRESSES: The applicable SB may be obtained from Rolls-Royce Limited, Technical Publications Department, P.O. Box 31, Derby DE2 8BJ, England.

A copy of the SB is contained in the Rules Docket No. 84-ANE-14 in the Office of the Regional Counsel, New England Region, Federal Aviation Administration, 12 New England Executive Park, Burlington, Massachusetts 01803.

FOR FURTHER INFORMATION CONTACT: Mark C. Fulmer, Transport Engine Branch, ANE-141, Engine Certification Office, Aircraft Certification Division, New England Region, Federal Aviation Administration, 12 New England Executive Park, Burlington, Massachusetts 01803, telephone (617) 273-7120.

SUPPLEMENTARY INFORMATION: A proposal to amend Part 39 of the Federal Aviation Regulations to include an AD requiring incorporation of Rolls-Royce SB RB211-72-6847 on certain Rolls-Royce RB211 turbofan engines was published in the **Federal Register** on January 15, 1985 (50 FR 2061).

The proposal was prompted by four incidents of fan shaft failure following severe low pressure rotor location bearing failure. Three of those four incidents resulted in uncontained failure of the low pressure turbine rotor due to overspeeding, causing substantial aircraft damage.

The FAA has determined that the failure of the low pressure rotor location bearing on certain Rolls-Royce RB211-22B and -524 series turbofan engines can result in an internal oil fire and subsequent failure of the low pressure compressor rotor shaft. Failure of the low pressure compressor rotor shaft results in loss of load transfer from the low pressure turbine rotor to the low pressure compressor and can cause the low pressure turbine to overspeed leading to an uncontained failure of the

turbine rotor assembly. Since this condition is likely to exist or develop on other engines of the same type design, the AD requires incorporation of low pressure rotor location bearing area modifications as specified in Rolls-Royce Mandatory SB RB211–72–6847, Revision 2, dated March 30, 1984, on Rolls-Royce RB211–22B and RB211–524B, –524C, and –524D series turbofan engines.

Interested persons have been afforded the opportunity to participate in the making of this document. Comments were requested and two were received, both of which were favorable.

Conclusion

The FAA has determined that this regulation involves 120 Lockheed L1011 aircraft and 433 Rolls-Royce RB211–22B and –524 series turbofan engines at an approximate total cost of 6.1 million dollars. Less than 11 small entities will be affected by this regulation. Therefore, I certify that this action: (1) Is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A copy of the final evaluation prepared for this action is contained in the regulatory docket. A copy may be obtained by contacting the person identified under the caption "**FOR FURTHER INFORMATION CONTACT**".

List of Subjects in 14 CFR Part 39

Engines, Air transportation, Aircraft, Aviation safety, Incorporation by reference.

Adoption of the Amendment

PART 39—[AMENDED]

Accordingly, pursuant to the authority delegated to me by the Administrator § 39.13 of Part 39 of the Federal Aviation Regulations (14 CFR 39.13) is amended by adding the following new AD:

Rolls-Royce Limited: Applies to Rolls-Royce RB211–22B and RB211–524B, –524C, and –524D series turbofan engines.

Compliance is required as indicated unless already accomplished.

To prevent an internal oil fire, failure of the low compressor rotor shaft, and subsequent low turbine rotor overspeed leading to an uncontained rotor failure, accomplish the following:

Prior to April 1, 1986, incorporate low pressure rotor location bearing area modifications as specified in Rolls-Royce Mandatory SB RB211–72–6847, Revision 2, dated March 30, 1984, or FAA approved equivalent.

Upon request, an alternate means of compliance may be approved by the Manager, Engine Certification Office, Aircraft Certification Division, New England Region, Federal Aviation Administration, 12 New England Executive Park, Burlington, Massachusetts 01803.

The manufacturer's SB identified and described in this directive is incorporated herein and made a part hereof pursuant to 5 U.S.C. 552(a)(1). All persons affected by this directive who have not already received the SB from the manufacturer may obtain copies upon request to Rolls-Royce Limited, Technical Publications Department, P.O. Box 31, Derby DE2 8BJ, England. The SB may also be examined at the office of the Regional Counsel, New England Region, Federal Aviation Administration, Rules Docket No. 84–ANE–14, 12 New England Executive Park, Burlington, Massachusetts 01803, weekdays between the hours of 8:00 a.m. and 4:30 p.m. except Federal holidays.

This amendment becomes effective on July 23, 1985.

(Secs. 313(a), 601, and 603, Federal Aviation Act of 1958 as amended (49 U.S.C. 1354(a), 1421, and 1423); 49 U.S.C. 106(g) (Revised, Pub. L. 97–449, January 12, 1983); and 14 CFR 11.89)

Issued in Burlington, Massachusetts, on May 6, 1985.

Robert E. Whittington,

Director, New England Region.

[FR Doc. 85–13009 Filed 5–30–85; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF COMMERCE

International Trade Administration

15 CFR Parts 371, 379 and 399

[Docket No. 50462–5062]

Clarifications of Export Licensing Policy

AGENCY: Office of Export Administration, International Trade Administration, Commerce.

ACTION: Final rule.

SUMMARY: This rule, which neither expands nor limits the provisions of the Export Administration Regulations, provides exporters with clarifications of policy governing exports of commodities and technical data:

(1) A statement is added clarifying a restriction on the export of certain items under General License Baggage. Some shipments of unaccompanied baggage must be made within three months before or after the departure of the consignee or owner.

(2) Cross-references are added to Part 379, "Technical Data", and to Supplement No. 1 to § 399.1 (the Commodity Control List). These cross-references do not represent a change in policy, and only serve to notify exporters that technical data or software related to certain acoustic and/or ultrasonic systems or equipment and controlled specifically by ECCN 1510A may not be exported or reexported under General License GTDR.

EFFECTIVE DATE: May 31, 1985.

FOR FURTHER INFORMATION CONTACT: Betty Ferrell, Exporter Assistance Division, Office of Export Administration, Department of Commerce, Washington, D.C. 20230 (Telephone (202) 377–3856).

SUPPLEMENTARY INFORMATION:

Rulemaking Requirements

In connection with various rulemaking requirements, the Office of Export Administration has determined that:

1. Since this rule relates to a foreign affairs function of the United States, the proposed rulemaking procedures and the delay in effective date required under the Administrative Procedure Act are inapplicable.

2. This rule does not contain a collection of information requirement under the Paperwork Reduction Act of 1980, 44 U.S.C. 3501 *et seq.*

3. Because a notice of proposed rulemaking is not required, this rule is not a rule within the meaning of section 601(2) of the Regulatory Flexibility Act, 5 U.S.C. 601 (2) and is not subject to the requirements of that Act. Accordingly, no initial or final Regulatory Flexibility Analysis has been or will be prepared.

4. Since this rule invokes a foreign affairs function of the United States, it is not a rule or regulation within the meaning of Section 1(a) or Executive Order 12291 and, accordingly, is not subject to the requirements of that Order. No preliminary or final Regulatory Impact Analysis has been or will be prepared.

Therefore, this regulation is issued in final form. Although there is no formal comment period, public comments on this regulation are welcome on a continuing basis.

List of Subjects

15 CFR Part 371

Exports.

15 CFR Part 379

Exports, Science and technology.

15 CFR Part 399

Exports.

Accordingly, the Export Administration Regulations (15 CFR Parts 368–399) are amended as follows:

1. The authority citation for 15 CFR Parts 371, 379 and 399 continues to read as follows:

Authority: Secs. 203, 206, Pub. L. 95-223, Title II, 91 Stat. 1626, 1628 (50 U.S.C. 1702, 1704), Executive Order No. 12470 of March 30, 1984 (49 FR 13099, April 3, 1984); Presidential Notice of March 28, 1985 (50 FR 12513, March 29, 1985).

PART 371—[AMENDED]

§ 371.6 [Amended]

2. Paragraph (a) of § 371.6 is amended by adding after the sentence "Shipments of unaccompanied baggage may be made at the time of, or within a reasonable time prior to or after departure of the consignee or owner from the United States."—a new sentence reading—"Items of personal baggage identified by code letter "A", "B", or "M" following the Export Control Commodity Number on the CCL must be shipped within 3 months before or after the month in which the consignee or owner departs the United States."

PART 379—[AMENDED]

§ 379.4 [Amended]

2. Paragraph (g) of § 379.4 is amended by revising the sentence—"*See* ECCNs 1091A, 1354A, 1355A, 1527A, 1532A and 1567A"—to read "*See* ECCNs 1091A, 1354A, 1355A, 1510A, 1527A, 1532A and 1567A".

PART 399—[AMENDED]

§ 399.1 [Amended]

4. Commodity Group 5, Electronics and Precision Instruments, of Supplement No. 1 to § 399.1 (the Commodity Control List) is amended by adding a "Technical Data" paragraph between the "Special South Africa and Namibia Controls" paragraph and the "Special Licenses Available" paragraph in ECCN 1510A, reading as follows:

1510A Acoustic and/or ultrasonic systems or equipment. . .

* * * * *

Technical Data: No technical data or software controlled under this ECCN may be exported or reexported under General License GTDR.

* * * * *

Dated: April 24, 1985.

John K. Boidock,

Director, Office of Export Administration, International Trade Administration.

[FR Doc. 85-13020 Filed 5-30-85; 8:45 am]

BILLING CODE 3510-DT-M

15 CFR Part 373

[Docket No. 50461-5061]

Export Administration Regulations; Editorial Amendments

AGENCY: Office of Export Administration, Commerce.

ACTION: Final rule.

SUMMARY: This rule, which neither expands nor limits the provisions of the Export Administration Regulations, makes minor editorial changes to a list of countries appearing in the Regulations. These changes are:

1. "Bahamas, The" is revised to read "The Bahamas";
2. "Upper Volta" is revised to read "Burkina Faso", the proper designation for that country.
3. "Central African Empire" is revised to read "Central African Republic", the proper designation for that country.
4. "Gambia, The" is revised to read "The Gambia".
5. "Serra Leon" is revised to read "Sierra Leone".
6. "Surinam" is revised to read "Suriname".

EFFECTIVE DATE: May 31, 1985.

FOR FURTHER INFORMATION CONTACT: Betty Ferrell, Exporter Assistance Division (Telephone: (202) 377-3856).

SUPPLEMENTARY INFORMATION: .

Rulemaking Requirements

In connection with various rulemaking requirements, the Office of Export Administration has determined that:

1. Since this rule involves a foreign affairs function of the United States, the provisions of the Administrative Procedure Act requiring notice of proposed rulemaking, an opportunity for public participation, and a delay in effective date (5 U.S.C. 553) are inapplicable.

2. This rule does not contain a collection of information requirement under the Paperwork Reduction Act of 1980, 44 U.S.C. 3501 *et seq.*

3. Because a notice of proposed rulemaking is not being published for this rule, it is not a rule within the meaning of section 601(2) of the Regulatory Flexibility Act and is not subject to the requirements of that Act. Accordingly, no initial or final Regulatory Flexibility Analysis has been or will be prepared.

4. Because this rule concerns a foreign affairs function of the United States, it is not a rule or regulation within the meaning of section 1(a) of Executive order 12291 and, accordingly, is not subject to the requirements of that Order. Accordingly, no preliminary or final Regulatory Impact Analysis has been or will be prepared.

Therefore, this regulation is being issued in final form. Although there is no formal comment period, public comments on this regulation are welcome on a continuing basis.

List of Subjects in 15 CFR Part 373

Exports.

PART 373—[AMENDED]

Accordingly, the Export Administration Regulations (15 CFR Parts 368-399) are amended as follows:

1. The authority citation for 15 CFR Part 373 continues to read as follows:

Authority: (Secs. 203, 206, Pub. L. 95-223, Title II, 91 Stat. 1626, 1628 (50 U.S.C. 1702, 1704), Executive Order No. 12470 of March 30, 1984 (49 FR 13099, April 3, 1984); Presidential Notice of March 29, 1985).

2. Supplement No. 3 to Part 373 of the Export Administration Regulations (15 CFR Parts 368-399) is amended as follows:

A. "Bahamas, The" is revised to read "The Bahamas";

B. "Burkina Faso" is inserted between "Bostwana" and "Burundi";

C. "Central African Empire" is revised to read "Central African Republic";

D. "Gambia, The" is revised to read "The Gambia";

E. "Serra Leon" is revised to read "Sierra Leone"; and

F. "Upper Volta" is removed from the list.

Dated: April 24, 1985.

John K. Boidock,

Director, Office of Export Administration, International Trade Administration.

[FR Doc. 13019 Filed 5-30-85; 8:45 am]

BILLING CODE 3510-DT-M

15 CFR Part 399

[Docket No. 50464-5064]

Amendments to the Commodity Control List

AGENCY: Office of Export Administration, International Trade Administration, Commerce.

ACTION: Final rule.

SUMMARY: The Commodity Control List lists all items controlled for export by the Department of Commerce. This rule makes the following amendments to the List.

Reference to Country Group S (Libya) are dropped from the Advisory Notes to more accurately reflect the current licensing policy toward Libya. The

Advisory Notes list those commodities for which licenses are likely to be approved for export to certain Country Groups. U.S. export policy requires denial of the items listed in the Advisory Notes if destined for export to Libya; therefore, this rule removes references to Country Group S.

In addition, this rule makes certain technical corrections to the Regulations. Information on the Country Groups to which a validated export license is required is added to two entries of the CCL.

EFFECTIVE DATE: May 31, 1985.

FOR FURTHER INFORMATION CONTACT: Betty Ferrell, Exporter Assistance Division (Telephone: (202) 377-3856).

SUPPLEMENTARY INFORMATION:

Rulemaking Requirements

In connection with various rulemaking requirements, the Office of Export Administration has determined that:

1. One regulatory change made by this rule involves a foreign affairs function; other changes make technical corrections and changes. Therefore, the proposed rulemaking procedures and delay in effective date required under the Administrative Procedure Act are not necessary.

2. This rule does not contain a collection of information requirement under the Paperwork Reduction Act of 1980, 44 U.S.C. 3501 *et seq.*

3. Because a notice of proposed rulemaking is not required to be published for this rule, it is not a rule within the meaning of section 601(2) of the Regulatory Flexibility Act, 5 U.S.C. 601(2) and is not subject to the requirements of that Act. Accordingly, no initial or final Regulatory Flexibility Analysis has been or will be prepared.

4. Because this rule concerns a foreign affairs function of the United States, it is not a rule or regulation within the meaning of Section 1(a) of Executive Order 12291 and, accordingly, is not subject to the requirements of that Order. Accordingly, no preliminary or final Regulatory Impact Analysis has been or will be prepared.

Therefore, this regulation is being issued in final form. Although there is no formal comment period, public comments on this regulation are welcome on a continuing basis.

List of Subjects in 15 CFR Part 399

Exports.

Accordingly, the Commodity Control List, Supplement No. 1 to § 399.1 of the Export Administration Regulations (15 CFR Parts 368-399), is amended as follows:

PART 399—[AMENDED]

1. The authority citation for 15 CFR Part 399 continues to read as follows:

Authority: Secs. 203, 206, Pub. L. 95-223, Title II, 91 Stat. 1626, 1628 (50 U.S.C. 1702, 1704), Executive Order No. 12470 of March 30, 1984 (FR 13099, April 3, 1984); Presidential Notice of March 28, 1985 (50 FR 12513, March 29, 1985).

§ 399.1 [Amended]

2. The "S" is removed from the phrase "Country Groups" QSWY in the *Advisory Notes* to the following entries:

A. In Commodity Group O, Metal-Working Machinery: 2018A, 1081A and 1091A;

B. In Commodity Group 1, Chemical and Petroleum Equipment: 2120A 1131A, and 1133A.

C. In Commodity Group 2, Electrical and Power-Generating Equipment: 1203A, 1205A (2 deletions) and 3261A (2 deletions);

D. In Commodity Group 3, General Industrial Equipment: 1312A (3 deletions); 1353A, 1355A, 1361A (2 deletions) and 1371A;

E. In Commodity Group 4, Transportation Equipment: 1485A;

F. In Commodity Group 5, Electronics and Precision Instruments: 1501A (8 deletions), 1502A, 1510A (2 deletions), 1519A (3 deletions), 1520A (5 deletions), 1522A, 1526A (2 deletions), 1529A (3 deletions), 1531A, 1532A, 1533A, 1534A (2 deletions), 1537A (5 deletions), 1541A, 1544A (2 deletions), 1545A (2 deletions), 1547A (2 deletions), 1548A (2 deletions), 1549A, 1555A (3 deletions), 1558A, 1559A, 1564A (4 deletions), 1568A, 1572A (4 deletions), 1584A, 1586A, 1587A, 1588A and 1595A;

G. In Commodity Group 6, Metals, Minerals and their Manufactures; 3604A, 3605A and 1673A; and

H. In Commodity Group 7, Chemicals, Metalloids, Petroleum Products and Related Materials: 1754A (2 deletions), 1755A (2 deletions), 1767.

3. ECCN 2317A in Commodity Group 3, General Industrial Equipment, and ECCN 5998B in Commodity Group 9, Miscellaneous, are amended by inserting—"*Validated License Required:* Country Groups QSTVWYZ." between the *Unit* and the *GLV & Value Limit* headings.

Dated: April 24, 1985.

John K. Boidock,

Director, Office of Export Administration, International Trade Administration.

[FR Doc. 85-13021 Filed 5-30-85; 8:45 am]

BILLING CODE 3510-DT-M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

18 CFR Part 282

[Docket No. RM79-14]

Incremental Pricing Regulations Implementing the Incremental Pricing Provision of the Natural Gas Policy Act of 1978; OPPR of Publication of Incremental Pricing Acquisition Cost Thresholds

AGENCY: Federal Energy Regulatory Commission, DOE.

ACTION: Order prescribing incremental pricing thresholds.

SUMMARY: The Director of the Office of Pipeline and Producer Regulation is issuing the incremental pricing acquisition cost thresholds prescribed by Title II of the Natural Gas Policy Act and 18 CFR 282.304. The Act requires the Commission to compute and publish the threshold prices before the beginning of each month for which the figures apply. Any cost of natural gas above the applicable threshold is considered to be an incremental gas cost subject to incremental pricing surcharging.

EFFECTIVE DATE: June 1, 1985.

FOR FURTHER INFORMATION CONTACT: Kenneth A. Williams, Federal Energy Regulatory Commission, 825 N. Capitol Street, NE., Washington, D.C. 20426, (202) 357-8500.

Order of the Director, OPPR

In the matter of publication of prescribed incremental pricing acquisition cost threshold of the NGPA of 1978, Docket No. RM79-14.

Issued May 24, 1985.

Section 203 of the NGPA requires that the Commission compute and make available incremental pricing acquisition cost threshold prices prescribed in Title II before the beginning of any month for which such figures apply.

Pursuant to that mandate and

pursuant to § 375.307(1) of the Commission's regulations, delegating the publication of such prices to the Director of the Office of Pipeline and Producer Regulation, the incremental pricing acquisition cost threshold prices for the month of June 1985 is issued by the publication of a price table for the applicable month. The incremental pricing acquisition cost threshold prices for months prior to June 1985 are found in the tables in § 282.304.

List of Subjects in 18 CFR Part 282

Natural gas.

Kenneth A. Williams,

Director, Office of Pipeline and Producer Regulation.

TABLE I—INCREMENTAL PRICING ACQUISITION COST THRESHOLD PRICES

	Calendar Year 1984											
	January	February	March	April	May	June	July	August	September	October	November	December
Incremental Pricing Threshold	$2.283	$2.291	$2.299	$2.307	$2.315	$2.323	$2.331	$2.338	$2.345	$2.352	$2.359	$2.366
NGPA section 102 Threshold	3.586	3.609	3.632	3.656	3.680	3.705	3.730	3.752	3.774	3.797	3.821	3.845
NGPA section 109 Threshold	2.359	2.367	2.375	2.383	2.391	2.399	2.407	2.414	2.421	2.428	2.436	2.444
130 percent of No. 2 Fuel Oil in New York City Threshold	7.730	7.570	7.570	8.550	8.590	7.670	7.930	7.740	7.650	7.230	7.040	7.290

	Calendar Year 1985					
	January	February	March	April	May	June
Incremental Pricing Threshold	$2.373	$2.378	$2.383	$2.388	$2.399	$2.410
NGPA section 102 Threshold	3.869	3.890	3.911	3.932	3.962	3.992
NGPA section 109 Threshold	2.452	2.457	2.462	2.467	2.478	2.489
130 percent of No. 2 Fuel Oil in New York City Threshold	7.170	7.310	7.090	6.920	7.210	7.120

[FR Doc. 85-13015 Filed 5-30-85; 8:45 am]

BILLING CODE 6717-01-M

DEPARTMENT OF THE INTERIOR

Office of Water Resources Research

18 CFR Ch. IV

Geological Survey

30 CFR Part 401

State Water Research Institute Program

AGENCY: U.S. Geological Survey, Interior.

ACTION: Final rule.

SUMMARY: The purpose of this action is to establish procedures that will enable the Department of the Interior to meet its responsibilities in administering Federal funds that support in part the program of State water research institutes that was reauthorized by the Water Resources Research Act of 1984 (Pub. L. 98-242, 98 Stat. 97). The rules and regulations now in effect (18 CFR Parts 501 through 508) were issued in 1964 and are not consistent with the new legislation. They are revoked by this action. This rulemaking action primarily addresses matters of: Location of administrative responsibility within the Department; designation of the academic institutions hosting the institutes; the new cost-sharing requirements and evaluation process required by the Act; and application and reporting procedures. The rulemaking action is intended to provide clear and consistent administrative direction to both the granting agency and the grantees.

EFFECTIVE DATE: July 1, 1985.

FOR FURTHER INFORMATION CONTACT: Frank T. Carlson, Chief, State Water Research Institute Program, U.S. Geological Survey, 424 National Center, 12201 Sunrise Valley Drive, Reston, Virginia 22092, 703-860-7921.

SUPPLEMENTARY INFORMATION:

Background

18 CFR Chapter IV, Parts 501 through 508, which this action revokes and vacates, established the Office of Water Resources Research (OWRR) as the administering agency for the programs authorized by the Water Resources Research Act of 1964 (Pub. L. 88-379, 78 Stat. 331) including the program of water research institutes located at colleges and universities in the States. The procedures set out in those rules and regulations also served to guide the institute program when OWRR became part of the new Office of Water Research and Technology (OWRT) in 1974 and under new authorizing legislation, the Water Research and Development Act of 1978 (Pub. L. 95-467, 92 Stat. 1305). In 1982, a Secretarial Order terminated OWRT and transferred the institute program to the Officer of Water Policy (OWP). Congressional appropriation language for fiscal year 1984 directed the abolishment of OWP and the transfer of the institute program to the U.S. Geological Survey (USGS). In March of 1984, Congress reauthorized the program by means of a new Water Resources Research Act (Pub. L. 98-242, 98 Stat. 97) and included in the Act specific language calling for new rules and regulations to be promulgated pursuant to the new legislation and superseding the ones previously enacted. This action responds to that direction and confirms the Department's intention to maintain administrative continuity for the program within the USGS. The revocation action removes from the Code of Federal Regulations all references to research programs no longer in existence. The new rule governing the continued existence of the institute program is placed in Title 30, Chapter IV for consistency with placement of all regulations relating to programs of the USGS.

Required Analyses

The Department of the Interior has determined that this document is not a major rule under Executive Order 12291 and therefore a regulatory impact analysis is not required. Enactment of new regulations to guide the institute program will promote efficiency and economy and have an estimated economic impact of significantly less than $100 million. Additionally, this action is not expected to increase costs or prices of goods and services in the private sector or have any other adverse economic impacts which require a regulatory impact analysis under the provisions of the Executive Order.

It has also been determined that these regulations do not have a significant economic impact on a substantial number of small entities. Consequently, a regulatory flexibility analysis is not required by the Regulatory Flexibility Act (Pub. L. 96-354, 94 Stat. 1170). Small entities, as defined in the Regulatory Flexibility Act, are not applicants or grantees under this program.

The administrative procedures set forth in this action have no potential for significant environmental impact and are categorically excluded from the requirements for compliance with the National Environmental Policy Act of 1969, as amended (Pub. L. 91-190, 83 Stat. 852).

Paperwork Reduction Act of 1980

The information collection requirements that are included in this rule have been approved by the Office of Management and Budget (OMB) under the provisions of the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 *et seq.*). They have been assigned OMB Control Number 1028-0044 and approved for use through February 29, 1988.

Response to Public Comment

Eight letters of comment were received in response to the proposed rule as published in the **Federal Register** (50 FR 956) on January 8, 1985. Several comments requested changes on matters that are mandated by Pub. L. 98-242 and so are beyond the scope of this regulatory action. A discussion of other significant comments follows:

Comment: The summary statement should recognize the importance of the State role as well as that of the Department of the Interior in the support and administration of the institute program.

Response: The wording of the Summary has been modified to reflect this suggestion.

Comment: In reference to the certification of designation required by § 401.6(b), existing institutes should be continued without being required to go through this process.

Response: Although recognizing that a change in any State's designation of an academic institution at which to establish an institute from that orginally made pursuant to 30 CFR Part 401 is unlikely, the Department takes the position that the new legislation makes such change possible. Documentation of such establishment must therefore be required and the language of § 401.6(b) has been modified to clarify this requirement. In response to an inquiry concerning the definition of a "land-grant" institution, the legal citation making that definition has been expanded to be consistent with the Act.

Comment: The list of research topics in § 401.7(b) seems to deliberately avoid water-quality issues.

Response: This list is an exact duplicate of that given in Pub. L. 98-242. Although water-quality issues are not explicitly cited, they are not excluded and are considered inherent components of several of the listed items.

Comment: As provided in § 401.11(a), the criteria for selecting and approving amended applications should not be left to the Director's discretion, but should be published for official review and comment.

Response: Such a process of supplemental funding would necessarily take place at a time considerably beyond that of the original application period. To make the criteria subject to an official review and comment period would raise the possibility that the funds available for a fiscal year could not be allocated within that time period. Added language in § 401.11(a), however, now provides for official notice of the criteria by publication in the **Federal Register.**

Comment: Section 401.11(c), in suggesting people who should be consulted in program formulation, does not sufficiently recognize that many States have more than a single agency with water-management responsibilities, and does not mention Federal agency representatives.

Response: The language of § 401.11(c) has been changed to recognize the plurality of water-related State agencies. The words "other leading water-resources officials within the State" are considered to indicate inclusion of Federal agency representatives.

Comment: Section 401.7(c) is inconsistent with the Act in providing that an institute "may" instead of "shall" cooperate with other academic institutions within the State.

Response: The wording of this section has been changed to reflect this comment.

Comment: The maximum time period allowed for the granting agency to review applications (§ 401.11(h)) is unduly long, considering that detailed technical review has already taken place at the institute level.

Response: The time period specified in § 401.11(h) has been reduced to 90 days. This maximum is considered necessary in light of the number of applications that must be reviewed within that period for consistency with the program's policies and procedures.

Comment: Section 401.26(f) should provide for adequate advance notice of the nature of the documentation required of the institutes for purposes of the evaluation process.

Response: An advance notification period of 60 days is now specified in § 401.26(f).

Comment: The requirement of § 401.19(c) that a complete report on each research project should be kept on file should be changed to a requirement for a project file, in recognition of the fact that research results may be distributed among various sources.

Response: The provision as it stands does not necessarily refer to a single document, but to a complete set of project data. As such, the language remains unchanged.

Comment: The evaluation process will be greatly simplified and made more meaningful by elimination (in § 401.26(a)) of consideration of institute activities supported by sources other than Pub. L. 98-242.

Response: While recognizing that the wide diversity in the nature and extent of the institute's programs does increase the complexity of the evaluation process, the final rule maintains the position that the suggested exclusion would, in most cases, reduce the process to a meaningless exercise. This provision was explicitly commended by another commentor. More detailed plans for implementation of the evaluation process, which are beyond the scope of these regulations, address the need for consistency in approach through the composition and orientation of the evaluation teams.

Comment: The language of § 401.26 does not explicitly mandate, as does the Act, evaluation site visits to each institute.

Response: The language of § 401.26 has been changed to make clear that site visits are required.

The Catalog of Federal Domestic Assistance program affected is No. 15.805, Assistance to State Water Research Institutes.

List of Subjects in 18 CFR Ch. IV and 30 CFR Part 401

Colleges and universities, Grant programs—natural resources, Research, Water resources.

For the reasons set out in the preamble, this action amends Chapter IV of Title 18 and Chapter IV of Title 30 of the Code of Federal Regulations as follows:

CHAPTER IV—[REMOVED]

(1) Title 18 is amended by removing and vacating Chapter IV, Parts 501 through 508.

(2) Title 30, Chapter IV is amended by adding Part 401 to read as follows:

PART 401—STATE WATER RESEARCH INSTITUTE PROGRAM

Subpart A—General

Sec.

401.1 Purpose.
401.2 Delegation of authority.
401.3 Definitions.
401.4 Information collection.

Sec.
401.5 [Reserved]

Subpart B—Designation of Institutes; Institute Programs

401.6 Designation of institutes.
401.7 Programs of institutes.
401.8–401.10 [Reserved]

Subpart C—Application and Management Procedures

401.11 Applications for grants.
401.12 Program management.
401.13–401.18 [Reserved]

Subpart D—Reporting

401.19 Reporting procedures.
401.20–401.25 [Reserved]

Subpart E—Evaluation

401.26 Evaluation of institutes.

Authority: Sec. 104, Pub. L. 98–242, 98 Stat. 97 (42 U.S.C. 10303).

Subpart A—General

§ 401.1 Purpose.

The regulations in this part are issued pursuant to Title I of the Water Research Act of 1984 (Pub. L. 98–242, 98 Stat. 97) which authorizes appropriations to, and confers authority upon, the Secretary of the Interior to promote a national program of water-resources research.

§ 401.2 Delegation of authority.

The State Water Research Institute Program, as authorized by section 104 of the Act, has been established as a component of the U.S. Geological Survey (USGS). Secretary of the Interior has delegated to the Director of the USGS authority to take the actions and make the determinations that, under the Act, are the responsibility of the Secretary.

§ 401.3 Definitions.

"Act" means the Water Resources Research Act of 1984 (Pub. L. 98–242, 98 Stat. 97).

"Fiscal year" means a 12-month period ending on September 30.

"Director" means the Director of the USGS or a designee.

"Grant" means the funds made available to an institute in a particular fiscal year pursuant to section 104 of the Act and the regulations in this chapter.

"Grantee" means the college or university at which an institute is established.

"Granting agency" means the USGS.

"Institute" means a water resources research institute, center, or equivalent agency established in accordance with Title I of the Act.

"Region" means any grouping of two or more institutes mutually chosen by themselves to reflect a commonality of water-resources problems.

"Scientists" means individuals engaged in any professional discipline, including the life, physical or social sciences, and engineers.

"Secretary" means the Secretary of the Interior or a designee.

"State" means each of the 50 States, the Commonwealth of Puerto Rico, the Virgin Islands, the District of Columbia, Guam, American Samoa, the Commonwealth of the Mariana Islands, and the Trust Territory of the Pacific Islands.

§ 401.4 Information collection.

The information collection requirements contained in §§ 401.11 and 401.19 have been approved by the Office of Management and Budget under 44 U.S.C. 3501 *et. seq.* and assigned clearance number 1028–0044. They have been approved for use through February 29, 1988. The information is being collected to provide information on eligibility for grants and to provide performance reports on accomplishments achieved through use of such funds. The information will be used to determine compliance with the objectives and criteria of the grant program. Response is required to obtain a benefit.

§ 401.5 [Reserved]

Subpart B—Designation of Institutes; Institute Programs

§ 401.6 Designation of institutes.

(a) As a condition of recognition as an established institute under the provisions of this Chapter, each institute shall provide to the Director written evidence that it conforms to the requirements of subsection 104(a) of the Act, in that:

(1) The institute is established at the college or university in the State that was established in accordance with the Act of July 21, 1862 (12 Stat. 503; 7 U.S.C. 301ff), *i.e.*, a "land-grant" institution, or;

(2) If established at some other institution, the institute is at a college or university that has been designated by act of the legislature for the purposes of the Act, or;

(3) If there is more than one "land-grant" institution in the State, and no designation has been made according to paragraph (a)(2) of this section, the institute has been established at the one such institution designated by the Governor of the State to participate in the program, or;

(4) The institute has been designated as an interstate or regional institute by two or more cooperating States as provided in the Act.

(b) The certification of designation made pursuant to paragraph (a) of this section shall originate following the issuance of these regulations, be signed by the highest ranking officer of the college or university at which the institute is established and be submitted to the Director within 90 days of the effective date of these regulations. It shall be accompanied either by the evidence of establishment under the provisions of 30 CFR Part 401 or by new evidence of establishment made pursuant to these regulations.

(c) Any institute not previously established under the provisions of the Water Resources Act of 1964 (Pub. L. 88–379, 78 Stat. 331) or the Water Research and Development Act of 1978 (Pub. L. 95–467, 92 Stat. 1305) shall also, in addition to the annual program application specified in § 401.11 of this chapter, submit to the Director the following information:

(1) Evidence of the appointment by the governing authority of the college or university of an officer to receive and account for all funds paid under the provisions of the Act and to make annual reports to the granting agency on work accomplished; and

(2) Evidence satisfactory to the Director that it has the capability of conducting an effective interdisciplinary water research program and of promoting the application of the results of that research.

§ 401.7 Programs of institutes.

(a) Release of grant funds to participating institutes is conditioned on the ability of each receiving institute to plan, conduct, or otherwise arrange for:

(1) Competent research, investigations, and experiments of either a basic or practical nature, or both, in relation to water resources;

(2) Promotion of the dissemination and application of the results of these efforts; and

(3) Assistance in the training of scientists in relevant fields of endeavor to water resources through the research, investigations, and experiments.

(b) Such research, investigations, experiments and training may include:

(1) Aspects of the hydrologic cycle;

(2) Supply and demand;

(3) Demineralization of saline and other impaired waters;

(4) Conservation and best use of available supplies of water and methods of increasing such supplies;

(5) Water reuse;

(6) Depletion and degradation of ground-water supplies;

(7) Improvements in the productivity of water when used for agricultural, municipal, and commercial purposes;

(8) The economic, legal, engineering, social, recreational, biological, geographical, ecological, or other aspects of water problems;

(9) Scientific information dissemination activities, including identifying, assembling, and interpreting the results of scientific research on water resources problems, and ;

(10) Providing means for improved communication of research results, having due regard for the varying conditions and needs of the respective States and regions.

(c) An institute shall cooperate closely with other colleges and universities in the State that have demonstrated capabilities for research, information dissemination and graduate training in the development of its program. For purposes of financial management, reporting and other research program management and administration activities, the institutes shall be responsible for performance of the activities of other participating institutions.

(d) Each institute shall cooperate closely with other institutes and other research organizations in the region to increase the effectiveness of the institutes, to coordinate their activities, and to avoid undue duplication of effort.

§ 401.8–401.10 [Reserved]

Subpart C—Application and Management Procedures

§ 401.11 Applications for grants.

(a) Subject to the availability of appropriated funds, but not to exceed a total of $10 million, an equal amount of dollars will be available to each qualified institute in each fiscal year to assist it in carrying out the purposes of the Act. If the full amount of the available grant funds for any fiscal year has not been requested as of the closing date for receipt of applications, the remaining funds shall be made available to the institutes for amended applications containing additional projects of high priority concern. Selection and approval of such projects shall be based on criteria to be determined by the Director. Announcement of such criteria shall be made by notice in the **Federal Register**. Any funds which fail to be obligated by the close of the fiscal year for which they were appropriated shall be transferred by the Secretary for use during the succeeding fiscal year under the terms of section 106 of the Act. The granting agency may retain an amount up to 15 percent of the total appropriation for administrative costs.

(b) The granting agency will annually make available to qualified institutes instructions for the submittal of applications for grants. The instructions will include information pertinent only to a single fiscal year, such as the closing date for applications and the amount of funds initially available to each institute. They also will include notification of the provisions and assurances necessary to ensure that administration of the grant will be conducted in compliance with this chapter and other Federal laws and regulations applicable to grants to institutions of higher learning.

(c) In making its application for funds to which it is entitled under the Act, each institute shall use and follow the standard form for Federal assistance (SF 424, Federal Assistance). No preapplication is required. The institute shall include in Section IV of Standard Form 424 evidence that its application was:

(1) Developed in close consultation and collaboration with senior personnel of the State's department of water resources or similar agencies, other leading water resources officials within the State, and interested members of the public;

(2) Coordinated with other institutes in the region for the purposes of avoiding duplication of effort and encouraging regional cooperation in research areas of water management, development, and conservation that have a regional or national character; and

(3) Reviewed for technical merit of its research components by qualified scientists.

(d) Each application shall further include:

(1) A financial plan relating expenditures to scheduled activity and rate of effort to be expended and indicating the times at which there will be need for specified amounts of Federal funds; and

(2) A description of the institute's arrangements for development, administration, and technical oversight of the research program.

(e) Each annual program application is to include separately identifiable proposals for conduct of research to meet the needs of the State and region. Such proposals must set forth for each project:

(1) The nature, scope and objectives of the project to be undertaken;

(2) Its importance to the State, region, or Nation; its relation to other known research projects already completed or in progress; and the anticipated applicability of the research results;

(3) The period during which it will be pursued;

(4) The names and qualifications of the senior professional personnel who will direct and conduct the project;

(5) Its estimated costs, with a breakdown of the costs per year; and

(6) The extent of which it will provide opportunity for the training of scientists.

(f) Each program application shall contain a plan for disseminating information on the results of research and promoting their application. Plans which require the use of grant funds shall contain:

(1) Definition of the topics for dissemination;

(2) Identification of the target audiences for dissemination;

(3) Strategies for accomplishing the dissemination;

(4) Duties and qualifications of the personnel to be involved;

(5) Estimated costs of each identifiable element of the plan; and

(6) Identification of cooperating entities.

(g) The application shall provide assurance that non-Federal dollars will be available to share the costs of the proposed program. The Federal funds are to be matched on a basis of no less than one non-Federal dollar for every Federal dollar during the fiscal years ending September 30, 1985, and September 30, 1986; one and one-half non-Federal dollars for every Federal dollar during the fiscal years ending September 30, 1987, and September 30, 1988; and two non-Federal dollars for each Federal dollar during the fiscal year ending September 30, 1989.

(h) The granting agency will evaluate the proposals for consistency with the provisions of its instructions and this chapter and within no more than 90 days request any revisions and additions necessary for such consistency.

§ 401.12 Program management.

(a) Upon approval of each fiscal year's proposed program, the granting agency will transmit to the grantee an award which will incorporate the application and assurances.

(b) The grant is effective and constitutes an obligation of Federal funds in the amount and for the purpose stated in the award document at the time of the Director's signature.

(c) Acceptance of the award document certifies the grantee's assurance that the grant will be administered in compliance with the regulations, policies, guidelines, and requirements of the following OMB

circulars, copies of which shall be available from the granting agency:

(1) No. A–21, revised, "Cost Principles for Educational Institutions;"

(2) No. A–67, "Coordination of Federal Activities in the Acquisition of Certain Water Data;"

(3) No. A–88, revised, "Indirect Cost Rates, Audit and Audit Followup at Educational Institutions;"

(4) No. A–110, "Uniform Administrative Requirements for Grants and Agreements with Institutions of Higher Education, Hospitals and other Nonprofit Organizations;" and

(5) No. A–124, "Patents—Small Business Firms and Nonprofit Organizations."

§ 401.13–401.18 [Reserved]

Subpart D—Reporting

§ 401.19 Reporting procedures.

(a) The institutes are encouraged to publish, as technical reports or in the professional literature, the findings, results, and conclusions relating to separately identifiable research projects undertaken pursuant to the Act.

(b) Each institute shall submit to the granting agency, by a date to be specified in the award document, an annual program report which provides:

(1) A statement concerning the relationship of the institute's program to the water problems and issues of the State;

(2) A synopsis of the objectives, methods, and conclusions of each project completed within the period covered;

(3) A progress report on each project continuing into the subsequent fiscal year;

(4) Citations of all reports, papers, publications or other communicable products resulting from each project completed or in progress;

(5) A description of all activities undertaken for the purpose of promoting the application of research results;

(6) A description of cooperative arrangements with other educational institutions, State agencies, and others.

(c) One manuscript of reproducible quality and two copies of the annual program report shall be furnished to the granting agency. One copy of a complete report on the objectives, methods, and conclusions of each research project shall be maintained by the institute and open to inspection.

(d) Appropriate acknowledgment shall be given by institutes to the granting agency's participation in financing activities carried out under provisions of the Act. Such acknowledgment shall be included in all reports, publications, news releases, and other information media developed by institutes and others to publicize, describe, or report upon accomplishments and activities of the program.

(e) An original and two copies of the final "Financial Status Report," SF 269, shall be furnished to the granting agency within 90 days of completion of the grant period.

§ 401.20—401.25 [Reserved]

Subpart E—Evaluation

§ 401.26 Evaluation of institutes.

(a) Within 2 years of the date of its certification according to the provisions of § 401.6, each institute will be evaluated for the purpose of determining whether the national interest warrants its continued support under the provisions of the Act. That determination shall be based on:

(1) The quality and relevance of its water research as funded under the Act;

(2) Its effectiveness as a statewide institution for planning, conducting, or arranging research, including that supported by sources other than the Act;

(3) Its demonstrated performance in making research results available to users in the State and elsewhere; and

(4) Its demonstrated record in providing for the training of scientists through student involvement in its research program.

(b) An evaluation team, selected by the granting agency on the basis of the members' knowledge of water research and administration, shall visit each institute. Each team is to include at least one individual from the following categories:

(1) Employees of the Department of the Interior;

(2) University faculty or administrators with relevant experience in the conduct or administration of water resources research;

(3) Directors of water research institutes from States other than the one being evaluated;

(4) State or local water-resources agency personnel from the State of the institute being evaluated; and

(5) Private citizens who are familiar with water problems and issues of the State.

(c) The granting agency may request recommendations for team selections from the National Research Council/National Academy of Sciences and from other organizations whose members include the types of individuals cited in paragraph (b) of this section.

(d) The granting agency shall, as an administrative cost, provide the funds for travel and per diem expenses of team members, within the maximum limits allowable under Federal travel regulations.

(e) The granting agency has the right to select dates for the evaluation visits, and notice of the team's visit shall be provided to the institute being evaluated at least 60 days in advance.

(f) It shall be the responsibility of each institute to provide such documentation of its activities and accomplishments as the evaluation team may reasonably request. The request for this documentation shall be made at least 60 days prior to the due date for its receipt.

(g) Criteria to be used by the evaluation team in making its determination as to the institute's effectiveness shall include:

(1) Accreditation in sufficient disciplines to successfully mount an interdisciplinary research program;

(2) Sufficient resources, including laboratory, library, computer and other such facilities to support the research program;

(3) A sufficiently close administrative relationship and physical proximity to the university and to all the parts of it needed to provide an effective working relationship with researchers in a wide range of disciplines; and

(4) A demonstrated institutional commitment to the support and continuation of an effective water research program.

(h) Each team shall, within 10 days after completion of its evaluation, submit a written report of its findings to the granting agency for transmittal to the institute. If an institute is found to have deficiencies in meeting the objectives of the Act, it shall be allowed 1 year to correct them and to report such action to the granting agency. The decision as to the institute's eligibility to receive further funding will rest with the granting agency.

(i) After the initial evaluation, each institute shall be reevaluated at least every 4 years.

Dated: May 10, 1985.

Robert N. Broadbent,

Assistant Secretary for Water and Science.

[FR Doc. 85–13059 Filed 5–30–85; 8:45 am]

BILLING CODE 4310–31–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 178

[Docket No. 84F-0300]

Indirect Food Additives: Adjuvants, Production Aids, and Sanitizers

Correction

In FR Doc. 85-12290 beginning on page 21041 in the issue of Wednesday, May 22, 1985, under **"FOR FURTHER INFORMATION CONTACT"**, the telephone number was inadvertently omitted and should be inserted after the zip code to read, "202-472-5690".

BILLING CODE 1505-01-M

21 CFR Part 510

Penicillin Antibiotic Drugs for Animal Use; Change of Sponsor

Correction

In FR Doc. 85-12288 beginning on page 21045 in the issue of Wednesday, May 22, 1985, in the third column, in the tables contained in § 510.600(c) (1) and (2), the firm name "West Argo, Inc.," should read "West Agro, Inc.,"

BILLING CODE 1505-01-M

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

21 CFR Part 1308

Schedules of Controlled Substances; Temporary Placement of 3,4-Methylenedioxymethamphetamine (MDMA) Into Schedule I

AGENCY: Drug Enforcement Administration, Justice.

ACTION: Final rule.

SUMMARY: The Acting Administrator of the Drug Enforcement Administration (DEA) is issuing this notice to temporarily place 3,4-methylenedioxymethamphetamine (MDMA) into Schedule I of the Controlled Substances Act (CSA) pursuant to the emergency scheduling provisions of the CSA. This action is based on a finding that the scheduling of MDMA in Schedule I is necessary to avoid an imminent hazard to the public safety. This action will impose the criminal sanctions and regulatory controls of Schedule I on the manufacture, distribution and possession of MDMA.

EFFECTIVE DATE: On July 1, 1985, MDMA will be subject to Schedule I control.

FOR FURTHER INFORMATION CONTACT: Howard McClain, Jr., Chief, Drug Control Section, Drug Enforcement Administration, Washington, D.C. 20537.

SUPPLEMENTARY INFORMATION:

List of Subjects in 21 CFR Part 1308

Administrative practice and procedure, Drug traffic control, Narcotics, Prescription drugs.

The Comprehensive Crime Control Act of 1984 (Pub. L. 98-473) which was signed into law on October 12, 1984, amended section 201 of the CSA (21 U.S.C. 811) to give the Attorney General the authority to temporarily place a substance into Schedule I of the CSA if he finds that such action is necessary to avoid an imminent hazard to the public safety. A substance may be scheduled under the emergency provisions of the CSA if that substance is not listed in any other schedule under section 202 of the CSA (21 U.S.C. 812) or if there is no approval or exemption in effect under 21 U.S.C. 355 for the substance. The Attorney General has delegated his authority under 21 U.S.C. 811 to the Acting Administrator of the Drug Enforcement Administration (28 CFR 0.100(b)).

As required by section 201(h)(4) of the CSA (21 U.S.C. 811(h)(4)), the Acting Administrator has notified the Secretary of Health and Human Services of his intention to place MDMA into Schedule I pursuant to the emergency scheduling provisions. Such action may not take effect until the expiration of thirty days after notification is transmitted to the Secretary.

In making a finding of an imminent hazard to the public safety, the Attorney General is required to consider only those factors set forth in paragraphs (4) the history and current pattern of abuse, (5) the scope, duration and significance of abuse, and (6) what, if any, risk there is to the public health, of section 201(c) of the CSA (21 U.S.C. 811(c)).

House Report 98-835 which accompanied Pub. L. 98-473 states that "This new procedure (emergency scheduling) is intended by the Committee to apply to what has been called 'designer drugs,' new chemical analogs or variations of existing controlled substances, or other new substances, which have a psychedelic, stimulant or depressant effect and have a high potential for abuse." The report further states that this provision may apply to "substances which have been known to chemists for some time, (which) are 'discovered' by illicit drug researchers to have psychedelic effects." 3,4-Methylenedioxymethamphetamine (MDMA) is such a so-called designer drug which can produce psychedelic effects and which Congress clearly intended to be considered for emergency scheduling.

On July 27, 1984, in a **Federal Register** notice (49 FR 30210-1), the Administrator of DEA proposed to place MDMA into Schedule I of the CSA pursuant to the traditional scheduling provisions of section 201(a) of the CSA (21 U.S.C. 811(a)). This proposal was based on a review by DEA which showed that: (1) MDMA is chemically and pharmacologically related to 3,4-methylenedioxyamphetamine (MDA), a schedule I controlled substance, (2) MDMA has no legitimate medical use or manufacturer in the United States, (3) MDMA is produced in clandestine laboratories and encountered in the illicit drug traffic, and that (4) MDMA has been associated with medical emergencies as reported by the Drug Abuse Warning Network (DAWN) and drug abuse treatment programs, and on a scientific and medical evaluation and scheduling recommendation for MDMA by the Department of Health and Human Services which found that MDMA has a high potential for abuse, that MDMA presents a significant risk of harm to the public health, and that MDMA should be placed into Schedule I of the CSA. This information supported the findings of the DEA Administrator, as published in the July 27, 1985 **Federal Register** notice, that (1) MDMA has a high potential for abuse, (2) MDMA has no currently accepted medical use in treatment in the United States, and (3) there is a lack of accepted safety for the use of MDMA under medical supervision. As described in section 202(b)(1) of the CSA (21 U.S.C. 812(b)(1)), these findings for MDMA are consistent with its Schedule I control under the CSA.

Several interested individuals have requested a hearing in this matter following the publication of the **Federal Register** notice. On December 31, 1984, in a **Federal Register** notice (49 FR 50732-3), the DEA Administrator announced that a hearing would be convened before Administrative Law Judge Francis L. Young regarding the scheduling of MDMA. The hearing process is currently underway but the schedule suggests that this rulemaking process will not be completed before the end of 1985.

DEA has continued to gather information concerning the abuse of MDMA since the initial proposal to control it was published. Notwithstanding the above proceeding, information has come to light which clearly shows that placing MDMA into Schedule I on a temporary basis is necessary to avoid an imminent hazard to the public safety. Unapproved, so-called therapeutic use of MDMA as well as unregulated and uncontrolled production of MDMA continues in many sections of the country. Clandestine production, distribution and abuse of MDMA is occurring nationwide and appears to be escalating. The open promotion of MDMA as a legal euphoriant through fliers, circulars and promotional parties has recently surfaced in some areas. DEA agents estimate that 30,000 dosage units of MDMA are distributed each month in one Texas city. Drug abuse treatment programs have reported that they are seeing individuals seeking treatment who have taken multiple doses of MDMA. Additionally, DEA has been informed, that in April, 1985, the 22nd Expert Committee on Drug Dependence of the World Health Organization (WHO) recommended that MDMA be controlled in Schedule I of the Convention on Psychotropic Substances, 1971.

Of immediate concern to DEA in terms of hazard to the public safety is a very recent research finding which suggests that MDMA has neurotoxic properties. A paper entitled "Hallucinogenic Amphetamine Selectively Destroys Brain Serotonin Nerve Terminals: Neurochemical and Anatomical Evidence" by G. Ricaurte, G. Bryan, L. Strauss, L. Seiden and C. Schuster, describes studies which show that single or multiple doses of MDA selectively destroy serotonergic nerve terminals in the rat brain. The serotonergic system which is also present in man plays a role in regulating sleep, mood, sexual activity and sensitivity to aversive stimuli. Experts have concluded that because of the neurotoxic effects of closely related structural analogs of MDMA (MDA, amphetamine and methamphetamine) and because both MDA and MDMA cause the release of endogenous serotonin, it is likely that MDMA will produce similar nuerotoxic effects to those of MDA. Furthermore, the neurotoxicity of amphetamine and methamphetamine has been shown in 5 diverse mammalian species. This strongly suggests that the substances would be neurotoxic to humans.

In accordance with the provisions of section 201(h) of the CSA (21 U.S.C. 811(h)) and 28 CFR 0.100, the Acting Administrator has considered the following factors described in section 201(c) of the CSA (21 U.S.C. 811(c)) relative to making a determination of whether MDMA poses an imminent hazard to the public safety:

(4) Its history and current pattern of abuse.

(5) The scope, duration, and significance of abuse.

(6) What, if any, risk there is to the public health.

Based on a consideration of these factors and in light of the continuing and apparently increasing number of people being exposed to MDMA, its potential neurotoxicity and the lack of accepted medical use or established safety for use of MDMA, the Acting Administrator, pursuant to section 201(h) of the CSA (21 U.S.C. 811(h)) and 28 CFR 0.100, finds that scheduling MDMA in Schedule I of the CSA, at least on a temporary basis, is necessary to avoid an imminent hazard to the public safety.

The Acting Administrator has transmitted notice of his intention to temporarily place MDMA into Schedule I of the CSA to the Secretary of Health and Human Services. Comments submitted by the Secretary in response to the notification, including whether there is an exemption or approval in effect for MDMA under the Federal Food, Drug and Cosmetic Act, shall be taken into consideration by the Acting Administrator before the notice becomes effective.

Pursuant to the provisions of section 201(h) of the CSA (21 U.S.C. 811(h)) and 28 CFR 0.100, the Acting Administrator hereby orders that on July 1, 1985, MDMA (3,4-methylenedioxymethamphetamine), its optical, positional and geometric isomers, salts and salts of isomers, be placed into Schedule I of the CSA (21 U.S.C. 801 et seq.) unless the Acting Administrator gives notice in the **Federal Register** that this order is rescinded prior to July 1, 1985.

PART 1308—[AMENDED]

For the reasons set forth above, 21 CFR 1308.11(g) is amended as follows:

1. The authority citation for 21 CFR Part 1308 is revised to read as follows:

Authority: 21 U.S.C. 811, 812, 871(b).

2. Section 1308.11(g)(2) is added to read as follows:

§ 1308.11 Schedule I.

* * * * *

(g) * * *

(2) 3,4-methylenedioxyethamphetamine (MDMA), its optical, positional and geometric isomers, salts and salts of isomers.....7405

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The temporary placement of MDMA into Schedule I pursuant to 21 U.S.C. 811(h) is a completely separate and parallel action from the proposed scheduling of MDMA pursuant to 21 U.S.C. 811(a). This action will in no way interfere with the hearing in progress regarding the permanent scheduling of MDMA. This temporary scheduling of MDMA in Schedule I pursuant to 21 U.S.C. 811(h) will expire at the end of one year from the date of this order unless the proceedings initiated pursuant to 21 U.S.C. 811(a) ar still pending. In such case, the temporary scheduling of MDMA may be extended for up to six months.

All regulations and criminal sanctions applicable to Schedule I substances are effective on July 1, 1985, with respect to MDMA. However, individuals registered with DEA in accordance with Part 1301 or 1311 of Title 21 of the Code of Federal Regulations and who currently possess MDMA may continue to do so pending submission of an amended registration no later than July 30, 1985. Researchers registered in schedules other than Schedule I are required to obtain a separate registration for Schedule I research. In light of the current interest in research regarding MDMA, DEA will expedite the processing of all new Schedule I researcher applications and amendments to current Schedule I registrations. As described in 21 CFR 1301.32(a) and (b) and 1301.33, in order to conduct research with a controlled substance in Schedule I, a person must submit a research protocol for FDA approval, or in the case of clinical research, an Investigational New drug application (IND) for FDA approval. DEA will work closely with FDA in expeditiously processing all research protocols and IND applications for MDMA submitted in compliance with appropriate regulations. IND applications must contain information concerning the chemistry and manufacture of MDMA, its toxic profile in animals and detailed protocols regarding the clinical studies to be conducted.

1. Registration. Any person who manufactures, distributes, delivers, imports or exports MDMA, or who engages in research or conducts instructional activities with respect to this substance, or who proposes to engage in such activities, must be registered to conduct such activities in accordance with Parts 1301 and 1311 of

Title 21 of the Code of Federal Regulations.

2. Security. MDMA must be manufactured, distributed and stored in accordance with §§ 1301.71–1301.76 of Title 21 of the Code of Federal Regulations.

3. Labeling and Packaging. All labels and labeling for commercial containers of MDMA must comply with the requirements of §§ 1302.03–1302.05, 1302.07 and 1302.08 of Title 21 of the Code of Federal Regulations.

4. Quotas. All persons required to obtain quotas for MDMA shall submit applications pursuant to §§ 1303.12 and 1303.22 of Title 21 of the Code of Federal Regulations.

5. Inventory. Every registrant required to keep records and who possesses any quantity of MDMA shall take an inventory pursuant to §§ 1304.11–1304.19 of Title 21 of the Code of Federal Regulations of all stocks of this substance on hand.

6. Records. All registrants required to keep records pursuant to §§ 1304.21–1301.27 of Title 21 of the Code of Federal Regulations shall do so regarding MDMA.

7. Reports. All registrants required to submit reports pursuant to §§ 1304.37–1304.41 of Title 21 of the Code of Federal Regulations shall do so regarding MDMA.

8. Order Forms. All registrants involved in distribution of MDMA shall comply with the order form requirements of § 1305.01–1305.16 of Title 21 of the Code of Federal Regulations.

9. Importation and Exportation. All importation and exportation of MDMA shall be in compliance with Part 1312 of Title 21 of the Code of Federal Regulations.

10. Criminal Liability. Any activity with respect to MDMA not authorized by, or in violation of, the Controlled Substances Act or the Controlled Substances Import and Export Act occurring after July 1, 1985, is unlawful.

Pursuant to 5 U.S.C. 605(b), the Acting administrator certifies that the temporary placement of MDMA into Schedule I of the Controlled Substances Act will have no impact upon small businesses or other entities whose interests must be considered under the Regulatory Flexibility Act (Pub. L. 96–354). This action involves the temporary control of a substance with no currently approved medical use or manufacture in the United States.

It has been determined that the temporary placement of MDMA in Schedule I of the CSA under the emergency scheduling provisions is a statutory exception to the requirements of Executive Order 12291 (46 FR 13193).

Dated: May 28, 1985.

John C. Lawn,

Acting Administrator, Drug Enforcement Administration.

[FR Doc. 85–13171 Filed 5–30–85; 8:45 am]

BILLING CODE 4410-09-M

DEPARTMENT OF DEFENSE

Office of the Secretary

32 CFR Part 199

[DoD Regulation 6010.8–R, Amdt. No. 27]

Civilian Health and Medical Program of the Uniformed Services (CHAMPUS); Modification of Nonavailability Statement Requirement When the Beneficiary Has Primary Coverage Provided by Another Insurance Plan or Program

AGENCY: Office of the Secretary, DoD.

ACTION: Amendment to final rule.

SUMMARY: This amendment to final rule revises the comprehensive CHAMPUS Regulation, DoD 6010.8–R (32 CFR Part 199), pertaining to the requirement for nonavailability statements. This amendment provides an exception to the requirement in all cases where the beneficiary has primary coverage provided by another insurance plan or program.

DATES: This amendment is effective for all claims processed on or after October 12, 1984—the date Pub. L. 98–473 was signed into effect. Comments will be accepted until July 1, 1985.

ADDRESSES: Send comments to, Stephen E. Isaacson, Policy Branch, OCHAMPUS, Aurora, Colorado, 80045.

FOR FURTHER INFORMATION CONTACT: Stephen E. Isaacson, Policy Branch, OCHAMPUS, telephone (303) 361–4005.

SUPPLEMENTARY INFORMATION: In FR Doc. 77–7834, appearing in the **Federal Register** on April 4, 1977, (42 FR 17972), the Office of the Secretary of Defense published its regulation, DoD 6010.8–R, "Implementation of the Civilian Health and Medical Program of the Uniformed Services (CHAMPUS)," as Part 199 of this title.

Currently, a nonavailability statement is required in order for CHAMPUS to pay for nonemergency inpatient hospital care whenever the beneficiary lives within specified ZIP Code areas around a Uniformed Services Medical Treatment Facility. The only exception to this requirement is that a nonavailability statement is not required if the beneficiary has other insurance which pays for at least 75 percent of the covered services.

Section 8031 of Pub. L. 98–473 modifies this exception. Under this change, a nonavailability statement is not required if the beneficiary has coverage provided by another insurance plan or program which is primary payer. The only insurance plans or programs which are not primary to CHAMPUS are: (1) Plans administered under title XIX of the Social Security Act (Medicaid); (2) coverage specifically designed to supplement CHAMPUS benefits; and (3) certain federal government programs, as prescribed by the Director, OCHAMPUS, which are designed to provide benefits to a distinct beneficiary population and for which entitlement does not derive from either premium payment or monetary contribution.

This change will greatly simplify the beneficiary's task of determining if a nonavailability statement is required. Previously, in order to determine if a nonavailability statement was required, the beneficiary had to make the often difficult decision, prior to receiving any services, as to whether the other insurance eventually would pay for 75% of the covered services. Because of cost-sharing amounts, deductibles, and various non-covered services this often proved to be nearly impossible. Under this current change, the beneficiary's decision need be based only on whether the other insurance is primary payer regardless of the actual amounts eventually paid by the other insurance plan or program.

As authorized under 32 CFR 296.2(d)(4), the final regulation is being published and no previous public comment has been requested. This change is authorized through Pub. L. 98–473 which was effective October 12, 1984. Therefore, we do not believe it is in the public interest to delay the implementation through the publication of a proposed rule. However, for a period of 30 days following the date of the publication of this amendment in the **Federal Register**, we will accept public comments and, where appropriate, will revise the amendment. A notice advising of any revisions resulting from public comments will be published in the **Federal Register** no later than 90 days following the end of the comment period. Written public comments must be received on or before July 1, 1985.

Section 605(b) of the Regulatory Flexibility Act of 1980 (Pub. L. 96–354) requires that each federal agency prepare, and make available for public comment, a regulatory flexibility analysis when the agency issues regulations which would have a

significant impact on a substantial number of small entities. The Secretary certifies, pursuant to section 605(b) of Title 5, United States Code, enacted by the Regulatory Flexibility Act (Pub. L. 96-354), that this regulation will not have a significant economic impact on a substantial number of small businesses, organizations or government jurisdictions.

We have determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It is not, therfore, a "major rule" under Executive Order 12291.

List of Subjects in 32 CFR Part 199

Health insurance, Military personnel, Handicapped.

Accordingly, 32 CFR Part 199 is amended as follows:

PART 199—[AMENDED]

1. The authority citation for Part 199 continues to read as follows:

Authority: 10 U.S.C. 1079, 1086, 5 U.S.C. 301.

2. In Part 199, § 199.10 is amended as follows:

a. By removing the existing "Note" immediately following paragraph (a)(9)(i) and adding a new "Note".

b. By removing the existing "Note" immediately following paragraph (b)(5)(iii) and adding a new "Note".

c. By removing the existing "Note" immediately following paragraph (c)(3)(xiii) and adding a new "Note".

§ 199.10 [Amended]

* * * * *

(a) * * *
(9) * * *
(i) * * *

Note.—According to section 8031 of the Department of Defense Appropriation Act, 1985, (Pub. L. 98-473) a Nonavailability Statement must be obtained for payment of nonemergency inpatient hospital care available at a Uniformed Services Medical Treatment Facility (USMTF) if the patient lives within specified ZIP Code areas around that USMTF. Effective for claims processed on or after October 12, 1984, this limitation shall not apply to payments that supplement primary coverage provided by other insurance plans or programs for inpatient care. Application of those provisions after September 30, 1985, will depend on the language of future Appropriation Acts.

* * * * *

(b) * * *
(3) * * *
(iii) * * *

Note.—According to section 8031 of the Department of Defense Appropriation Act, 1985, (Pub. L. 98-473), and effective for claims processed on or after October 12, 1984, a Nonavailability Statement is not required for payments that supplement primary coverage provided by other insurance plans or programs for inpatient care. Application of this provision after September 30, 1985, will depend on the language of future Application Acts.

* * * * *

(c) * * *
(3) * * *
(xiii) * * *

Note.—According to section 8031 of the Department of Defense Appropriation Act, 1985, (Pub. L. 98-473), and effective for claims processed on or after October 12, 1984, a Nonavailability Statement is not required for payments that supplement primary coverage provided by other insurance plans or programs for inpatient care. Application of this provision after September 30, 1985, will depend on the language of future Appropriation Acts.

Patricia H. Means,

OSD Federal Register Liaison Officer, Department of Defense.

May 23, 1985.

[FR Doc. 85-12885 Filed 5-30-85; 8:45 am]

BILLING CODE 3810-01-M

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32 CFR Part 199

[DoD Regulation 6010.8-R, Amdt. No. 26]

Civilian Health and Medical Program of the Uniformed Services (CHAMPUS); Vision Care Benefit

AGENCY: Office of the Secretary, DoD.

ACTION: Amendment to final rule.

SUMMARY: This amendment to final rule revises the comprehensive CHAMPUS Regulation, DoD 6010.8-R (32 CFR 199), pertaining to payment for eye examinations for dependents of active duty members. This amendment allows one eye examination per year per person for dependents of active duty personnel only.

DATES: This amendment is effective for services rendered on or after October 1, 1984. Comments will be accepted until July 1, 1985.

ADDRESSES: Send comments to Stephen E. Isaacson, Policy Branch, OCHAMPUS, Aurora, Colorado 80045.

FOR FURTHER INFORMATION CONTACT: Stephen E. Isaacson, Policy Branch, OCHAMPUS, telephone (303) 361-4005.

SUPPLEMENTARY INFORMATION: In FR Doc. 77-7834, appearing in the **Federal Register** on April 4, 1977, (42 FR 17972), the Office of the Secretary of Defense published its regulation, DoD 6010.8-R, "Implementation of the Civilian Health and Medical Program of the Uniformed Services (CHAMPUS)," as Part 199 of this title.

On October 19, 1984, Pub. L. 98-525 was signed into effect. Section 632 of that law authorizes payment under the CHAMPUS for one eye examination per year per person for dependents of active duty members.

As authorized under 32 CFR 296.2(d)(4), the final regulation is being published and no previous public comment has been requested. Since this change is authorized through Pub. L. 98-525 which was effective October 1, 1984, we do not believe it is in the public interest to delay implementation through the publication of a proposed rule. However, for a period of 30 days following the date of the publication of this amendment in the **Federal Register**, we will accept public comments and, where appropriate, will revise the amendment. A notice advising of any revisions prompted by public comments will be published in the **Federal Register** no later than 90 days following the end of the comment period. Written public comments must be received on or before July 1, 1985.

Section 605(b) of the Regulatory Flexibility Act of 1980 (Pub. L. 96-354) requires that each federal agency prepare, and make available for public comment, a regulatory flexibility analysis when the agency issues regulations which would have a significant impact on a substantial number of small entities. The Secretary certifies, pursuant to section 605(b) of Title 5, Unites States Code, enacted by the Regulatory Flexibility Act (Pub. L. 96-354), that this regulation will not have a significant economic impact on a substantial number of small businesses, organizations or government jurisdictions.

We have determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It is not, therefore, a "major rule" under Executive Order 12291.

List of Subjects in 32 CFR Part 199

Health insurance, Military personnel, Handicapped.

PART 199—[AMENDED]

Accordingly, 32 CFR Part 199 is amended as follows:

1. The authority citation for Part 199 continues to read as follows:

Authority: 10 U.S.C. 1079, 1086, 5 U.S.C. 301.

2. In Part 199, § 199.10 is amended by adding a new subparagraph (c)(2)(xvi) and by revising subparagraph (g)(51) to read as follows:

§ 199.10 [Amended]

* * * * *

(c) * * *

(2) * * *

(xvi) *Routine Eye Examinations.* A routine eye examination is the services rendered in order to determine the refractive state of the eyes. Coverage for such services is limited to dependents of active duty members, to one examination per calendar year per person, and to services rendered on or after October 1, 1984.

* * * * *

(g) * * *

(51) *Eye and Hearing Examinations.* Eye and hearing examinations except as specifically provided in subparagraph (c)(2)(xvi) of this section or except when rendered in connection with medical or surgical treatment of a covered illness or injury.

Patricia H. Means,

OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 85-12864 Filed 5-30-85; 8:45 am]

BILLING CODE 3810-01-M

DEPARTMENT OF COMMERCE

Patent and Trademark Office

37 CFR Part 1

[Docket No. 40104-4151]

Patent Interference Proceedings

AGENCY: Patent and Trademark Office, Commerce.

ACTION: Final rule; correction.

SUMMARY: This document corrects clerical errors and adds material to the Analysis of Comments in the notice of final rule amending the Patent and Trademark rules of practice in patent interference cases, which were published in the **Federal Register** of December 12, 1984 (49 FR 48416 through 48471).

FOR FURTHER INFORMATION CONTACT: Fred E. McKelvey by telephone at (703) 557-4035 or by mail marked to his attention and addressed to Box Interference, Commissioner of Patents and Trademarks, Washington, D.C. 20231.

SUPPLEMENTARY INFORMATION:

Clerical Correction to the Preamble

The following corrections are made to the **Federal Register** issue of December 12, 1984:

Page 48417

1. In the second column, line 32 (the fifth full paragraph, the second sentence) the word "an" is inserted after the word "or".

Page 48418

2. In the second column, line 48 (the fifth full paragraph), after the word "agent", the following words "of record" are inserted.

Page 48419

3. In the first column, line 29 (the first full paragraph, the third sentence), the words "of an interference" are removed and the words "in an interference" are inserted in their place; in line 39 (the first full paragraph, the last sentence), the words "Federal Rule" are removed and the words "Federal Rules" are inserted in their place; in line 41 (the second full paragraph, the first sentence), the word "provide" is removed and the word "provides" is inserted in its place.

4. In the second column, line 29 (the second full paragraph, the second sentence), the word "defined" is removed and the word "defines" is inserted in its place; in line 45 (the second full paragraph, the last sentence), the spelling of the word "in" is corrected; in line 48 (the last paragraph, the first sentence), the words "one of" are removed and the words "one or" are inserted in their place.

Page 48422

5. In the second column, line 59 (the paragraph bridging the third column, the second sentence), quotation marks are placed around the word "lead".

6. In the third column, line 44 (the second full paragraph, the fourth sentence), the article "a" is inserted before the word "sanction".

Page 48423

7. In the first column, line 12 (the second full sentence from the top of the page), the word "proposed" is removed; in line 30 (the seventh full sentence from the top of the page), the words "and applicant" are removed and the words "an applicant" are inserted in their place; in line 55 (the first full paragraph, the second sentence), the colon appearing after the word "appropriate" is deleted and a period is inserted in its place.

8. In the third column, line 5, the first letter of the word "while" is capitalized.

Page 48425

9. In the second column, line 13 (the first full paragraph, the fourth sentence), the spelling of the word "Consultation" is corrected.

Page 48426

10. In the first column, line 44 (the second full paragraph, the last sentence), the spelling of the word "necessary" is corrected; in line 59 (the last paragraph, the first sentence), the spelling of the word "specifies" is corrected.

11. In the second column, line 1, the word "the" is inserted after the word "and"; in line 14 (the first full paragraph, the third sentence), the words "is required" are removed and the words "are required" are inserted in their place.

Page 48427

12. In the first column, line 5, the word "of" is removed.

13. In the second column, line 13 (the first full paragraph, the fourth sentence), the word "Claims" is removed and the word "Claim" inserted in its place.

Page 48428

14. In the second column, line 2, the words "would be" are removed and the word "is" is inserted in its place; in line 6, the word "intended" is removed and the word "intends" is inserted in its place.

Page 48430

15. In the second column, line 41 (the fifth full paragraph), the word "had" is removed and the word "has" is inserted in its place.

16. In the third column, line 37 (the third full paragraph, the last sentence), the comma after the word "language" is removed; in line 38, the comma after the word "affidavit" is removed.

Page 48432

17. In the first column, line 11 (the first full paragraph, the first sentence), the words "of sale" are removed and the words "or sale" are inserted in their place.

Page 48433

18. In the first column, line 4, the word "over" is removed and the word "of" is inserted in its place.

Page 48434

19. In the first column, line 2, the spelling of the word "arguably" is corrected; in line 9, the spelling of the word "definitions" is corrected.

Page 48435

20. In the first column, line 18 (the second full paragraph, the fourth sentence), the words "PTO was" are removed and the words "PTO were" are inserted in their place.

21. In the second column, line 26 (the first full paragraph, the fourth sentence), the spelling of the word "under" is corrected.

Page 48437

22. In the third column, line 21 (the first full paragraph, the third sentence), a closing quotation mark is placed after the word "opponent's".

Page 48438

23. In the first column, line 4 (the first full paragraph, the first sentence), the spelling of the word "suggested" is corrected.

Page 48440

24. In the first column, line 21 (the first full paragraph, the third sentence), the words "do not" are inserted after the word "rules".

25. In the third column, line 33 (the first full paragraph, the first sentence), the word "is" is inserted before the word "excluded".

Page 48442

26. In the third column, line 26 (the third full paragraph, the third sentence), the word "permitting" is removed and the word "permitted" is inserted in its place.

Page 48444

27. In the second column, line 47 (the second full paragraph, the second sentence), the reference to "1.644(b)" should read "1.644(a)(2)".

28. In the third column, line 59 (the last paragraph, the first sentence), the first letter of the word "Interference" is made lower case.

Page 48447

29. In the first column, line 1, the word "opponent's" is removed and the word "opponents" is inserted in its place.

30. In the second column, line 40 (the first full paragraph, the second sentence), the reference to "1662(a)" should read "1.662(a)"; in line 45 (the first full paragraph, the third sentence), the reference to "1633(d)" should read "1.633(d)".

Page 48448

31. In the second column, line 49 (the second full paragraph, the third sentence from the end), quotation marks are placed around the word "things"; in line 55 (the second full paragraph, the last sentence), the word "to" is inserted after the words "should resort".

32. In the third column, line 11 (the first full sentence from the top of the page), the colon after the word "controversy" is removed and a period is inserted in its place; in line 54 (the first full paragraph, the penultimate sentence), the spelling of the word "appropriate" is corrected.

Page 48449

33. In the second column, line 16 (the first full paragraph, the first sentence), the first letter of the word "Commentator's" is made lower case.

Page 48450

34. In the table correlating the old rules 37 CFR 1.201 through 1.288 to the new rules 37 CFR 1.601 through 1.688, the following corrections are made to the entries under the section, designated as new:

RULE CORRELATION TABLE

Old	New
1.201(a)	1.601(i)
1.201(b)	1.601(i)
1.203(a)	1.603
1.204(b)	1.606(a)
1.204(c)	1.608(b)
1.205(a)	1.606
1.208	1.613(b)
1.215(b)	1.623(c), 1.624(c), 1.625(c)
1.245	1.645(a)
1.246	1.645(b)
1.257(b)	1.658(c)
1.263	1.662(c)
1.264	1.662(b)
1.271	1.671(h)
1.272(b)	1.672(d)
1.272(c)	1.672(e), (i)
1.281	1.645(a)
1.287(b)	1.687(b)
1.287(c)	1.687(c)

Additional Analysis of Comments

Page 48435

1. In the second column after the last full paragraph, the following paragraph is added:

An oral comment was received by telephone concerning the declaration of an interference under §§ 1.603 and 1.606 with applications filed under the provisions of 35 U.S.C. 157—Statutory Invention Registration (SIR). Under 35 U.S.C. 157(c), a published SIR has all of the attributes specified for patents except those specified in 35 U.S.C. 183 and 271 to 289. Consequently, interferences will be declared between an application and either an application containing a request for a SIR (37 CFR 1.293) or a published SIR. Until sufficient experience is gained by the PTO, the interference will be conducted by procedure established on a case by case basis.

Page 48446

In the second column, after the first full paragraph, the following paragraph is added:

Oral comments have been received by telephone concerning the doctrine of interference estoppel under 37 CFR 1.658(c) with respect to a party's failure to move under 37 CFR 1.633(e) to declare an "additional interference" between an additional application not involved in the interference and owned by the party and an opponent's application or patent involved in the interference on a separate patentable invention. Generally a party will be estopped for failure to move when the separate patentable invention (subject matter) which could have been the subject of the "additional interference" was *claimed* (during the pendency of the interference) (1) in the opponent's involved application or patent or (2) in a non-involved application owned by the party.

The following illustrates the general applicability of interference estoppel in certain situations where a party fails to move under 37 CFR 1.633(e) to declare an "additional interference" on a separate patentable invention.

Party's non-involved application	Opponent's involved application or patent	Estoppel
Claimed	Claimed	Yes.
Disclosed	do	Yes.
Claimed	Disclosed	Yes.
Disclosed	do	No.

Clerical Corrections to the Rules

1. On page 48451, the second column, the amendment to § 1.8, amendatory instruction 4 is corrected by changing "paragraph (a)(xii) to read "paragraph (a)(2)(xii)".

2. On page 48452, the second column, in the second sentence of § 1.59, the spelling of the word "required" is corrected and the reference to "§ 1.21(1)" is corrected to read "§ 1.21(l)".

3. On page 48454, the third column, § 1.324 is corrected by inserting in the second sentence the article "a" before the word "patent".

4. On page 48455, the first column, in § 1.565, in the first sentence of paragraph (b), "in filed" should have read "is filed".

5. On page 48456, the first column, the last sentence of § 1.601(i) is corrected by removing the last occurrence of the word "patents" and inserting, in its place, the word "patent".

6. On page 48456, the first column, § 1.601(k) is corrected by removing the words "and interference" and inserting, in their place, the words "an interference".

7. On page 48456, the second column, the second sentence of § 1.601(n) is corrected by removing the words "a invention" and inserting, in their place, the words "an invention".

8. On page 48458, the first column, § 1.611(d)(2) is corrected by inserting the word "in" after the word "provided".

9. On page 48458, the second column, the reference to "1.608(b)" in the first sentence of §§ 1.612(a), 1.612(b) and 1.612(c) is corrected to read "1.608".

10. On page 48458, the third column, the first sentence of § 1. 615(a) is corrected by placing in italics the words "ex parte".

11. On page 48458, the third column, the second sentence of § 1.616 is corrected by changing to upper case the first letter of the words "holding", "precluding" and "granting" in paragraphs (a) to (e).

12. On page 48459, the first column, the first sentence of § 1.617(b) is corrected by removing the first occurrence of the word "any" and inserting, in its place, the word "may".

13. On page 48459, the first column, the last sentence of § 1.617(b) is corrected by inserting the words "on each opponent" after the words "shall serve".

14. On page 48459, the first column, the last sentence of § 1.617(d) is corrected by removing the words "an oral" and inserting, in their place, the article "a".

15. On page 48459, the first column, the last sentence of § 1.617(g) is corrected by removing the word "part" and inserting, in its place, the word "subpart".

16. On page 48459, the second column, the second sentence of § 1.621(a) is corrected by inserting the word "by" after the first occurrence of the word "or".

17. On page 48459, the second column, the first sentence of § 1.621(b) is corrected by inserting a comma after the first occurrence of word "statement".

18. On page 48459, the third column, the first sentence of § 1.624(a) is corrected by removing the semicolon appearing after the word "count" and inserting, in its place, a colon.

19. On page 48461, the first column, the last sentence of §1.631(a) is corrected by removing the words "a party shall serve copies of its preliminary statement on every opponent" and inserting, in their place, the words "a party shall serve a copy of its preliminary statement on each opponent".

20. On page 48461, the first column, the heading of § 1.633 is corrected by changing to lower case the first letter of the word "Motions".

21. On page 48461, the third column, in §1. 636(b) the reference to "§ 1.633 (a), (b), or (g)" is corrected to read "§ 1.633 (a), (b), (c)(1), or (g)".

22. On page 48462, the second column, in §§ 1.637(d)(2) and 1.637(e)(1)(ii) the reference to "§ 1.606(b)" is corrected to read "§ 1.608".

23. On page 48462, the second column, § 1.637(e)(1)(iv) is corrected by removing the words "a claim" and inserting, in their place, the words "any claim".

24. On page 48462, the third column, § 1.637(e)(2)(iii) is corrected by removing the first occurrence of the word "party's" and inserting, in its place, the word "party".

25. On page 48462, the third column, the second sentence of § 1.637(e)(2)(iv) is corrected by removing the two occurrences of the word "claims" and inserting, in their place, the word "claim".

26. On page 48462, the third column, in the first sentence of § 1.637(f)(2), the reference to "§ 1.606(b)" is corrected to read "§ 1.608".

27. On page 48463, the first column, § 1.637(h)(3) is corrected by removing the words "a claim" and inserting, in their place, the words "any proposed claim".

28. On page 48463, the second column, § 1.640(b)(2) is corrected by removing the words "entered or" and inserting, in their place, the words "entered on."

29. On page 48463, the third column, the penultimate sentence of § 1.640(c) is corrected by inserting the article "a" before the words "single examiner-in-chief".

30. On page 48463, the third column, § 1.640(d)(1) is corrected by removing the words "all counts" and inserting, in their place, the words "any count".

31. On page 48463, the third column, the first sentence of § 1.640(e) is corrected by removing the word "filed" and inserting, in its place, the word "files".

32. On page 48464, the second column, § 1.644(i) is corrected by removing the word "petition" and inserting, in its place, "petitions".

33. On page 48464, the second column, the first sentence of § 1.645(a) is corrected by inserting the word "or" after "§§ 1.302," and after "§§ 1.303,".

34. On page 48464, the third column, in the first sentence of § 1.646(a), the spelling of the word "every" is corrected.

35. On page 48464, the third column, § 1.646(c) is corrected by removing the word "part" and inserting, in its place, the word "subpart".

36. On page 48465, the third column, § 1.653(c)(5) is corrected by removing the word "an" and inserting, in its place, the word "and".

37. On page 48465, the third column, the last sentence of § 1.653(g) is corrected by removing the word "found" and inserting, in its place, the word "bound".

38. On page 48466, the first column, the penultimate sentence of § 1.653(i) is corrected by removing the words "and exhibit" and inserting, in their place, the words "an exhibit".

39. On page 48467, the third column, the second sentence of § 1.664(a) is corrected by removing the word "part" and inserting, in its place, the word "subpart".

40. On page 48468, the first column, the last sentence of § 1.666(c) is corrected by removing the word "Commission" and inserting, in its place, "Commissioner".

41. On page 48468, the second column, the first sentence of § 1.671(b) is corrected by removing the word "part" and inserting, in its place, the word "subpart".

42. On page 48468, the second column, in the first sentence of § 1.671(e) the reference to "§ 1.608(b)" is corrected to read "§ 1.608".

43. On page 48468, the third column, the third sentence of § 1.672(b) is corrected by removing the words "a party shall file" and inserting, in their place, the words "a party should file".

44. On page 48469, the third column, in § 1.676(a), the spelling of the third occurrence of the word "transcript" is corrected.

45. On page 48471, the first column, the second sentence of § 1.684(c)(6) is corrected by removing the words "a witness refused to read" and inserting, in their place, the words "a witness refuses to read".

46. On page 48471, the second column, § 1.685(c) is corrected by inserting the word "or" after the first occurrence of the word "error," and by removing the word "indorsed" and inserting, in its place, the word "endorsed".

Dated: May 21, 1985.

Donald J. Quigg,

Acting Commissioner of Patents and Trademarks.

[FR Doc. 85-13077 Filed 5-30-85; 8:45 am]

BILLING CODE 3510-16-M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

43 CFR Public Land Order 6605

Idaho; Public Land Order No. 6586; Correction

In FR Doc. 85-12618 appearing on page 21443 in the issue of Friday, May 24, 1985, the Public Land Order number in the heading should read as it appears above.

BILLING CODE 1505-01-M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 22

[CC Docket No. 84-1295; RM-4594; FCC 85-241]

Table of Assignments for Air-Ground Stations in the Public Land Mobile Service; Mobile, AL

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: On December 3, 1984, the Commission adopted a Notice of Proposed Rulemaking (FCC 84-231) which proposed to add Mobile, Alabama to the table of assignments for air-ground stations in the Public Land Mobile Service. Comments supported the need for air-ground service in the Mobile area. This proceeding adopts the rules change proposed in December and terminates this proceeding.

EFFECTIVE DATE: July 1, 1985.

FOR FURTHER INFORMATION CONTACT: Andrew L. Nachby, Mobile Services Division, Common Carrier Bureau, Federal Communications Commission, Washington, D.C. 20554, (202) 632-6450.

SUPPLEMENTARY INFORMATION:

List of Subjects in 47 CFR Part 22

Communications common carriers, Mobile radio service, Radio common carriers.

Report and Order (Proceeding Terminated)

In the Matter of Amendment of § 22.521(b) of the Commission's Rules to include Mobile, Alabama, in the table of assignments for air-ground stations in the Public Land Mobile Service (CC Docket No. 84-1295, RM-4594).

Adopted May 8, 1985.
Released May 10, 1985.

By the Commission.

1. On December 3, 1984, the Commission adopted a Notice of Proposed Rulemaking (FCC 84-231) which proposed to add Mobile, Alabama to the table of assignments for air-ground stations in the Public Land Mobile Service. The Notice was issued in response to a petition for rulemaking filed by Gulf Mobilefone of Alabama, Inc. (Gulf) (RM-4594). Gulf filed comments and reply comments reaffirming its intention to apply for the channel, if assigned. Comments in support of assigning the channel were received from Callpage, Inc. In addition to those of Gulf. No other comments were filed.

2. Section 22.521(a) of the Commission's Rules allocates twelve frequency pairs for assignment to land mobile radio stations for the purpose of providing communications service to airborne stations. Section 22.521(b) allocates from one to four of these frequency pairs, or working channels, to specific geographic locations. That subsection requires that base stations operating on these frequencies be within 25 miles of the location specified.

3. Mobile, Alabama is not among the locations listed in § 22.521(b), nor is it within 25 miles of any of the other specified locations. Gulf requested that § 22.521(b) be amended by adding Mobile to the list of assignments for air-ground stations. This amendment would allow an air-ground station to be operated on the working frequency 454.800 MHz (Channel 4) and on 454.675 MHz (the nationwide signaling channel) within 25 miles of Mobile, Alabama. Petitioner expects that no harmful electrical interference will be caused by this amendment.

4. The nearest air-ground station on Channel 4 is Charleston, South Carolina, approximately 497.9 miles away. Gulf argues that a similar separation between co-channel stations has been authorized elsewhere by the Commission. It further states that there is a significant unsatisfied need for air-ground radiotelephone service in the Mobile area. In response to a survey conducted by Gulf among the general aviation community in the Mobile area, 25 firm applications for service were produced from aviation firms, manufacturers, health care providers, real estate firms and other business interests. The Mobile, Alabama area, which extends along the Gulf of Mexico coast is a center for commercial activity and the scene of significant general aviation activity. Additionally, this is an area where a significant gap in coverage in the present air-ground allocation exists. Gulf argues that aircraft at sufficiently high altitudes can obtain service through a distant base station but must then pay toll charges to communicate with Mobile telephones. Callpage makes similar observations regarding co-channel station distance, and echoes claims of a significant need for air-ground service in the Mobile area, indicating that if the amendment is approved it will file an application for an air-ground station.

5. Based on the information in the record it is clear that there is substantial evidence of need for air-ground communications service in Mobile, Alabama. Furthermore, petitioners have shown that Mobile is more than 400 miles from the nearest existing station on the proposed working channel, which will provide air-ground service with little probability of interference for aircraft flying up to 20,000 feet above mean sea level. In addition, we note that Mobile is more than 130 miles from the nearest existing air-ground station. Accordingly, the probability of interference on the signaling channel will be acceptably low. For the foregoing reasons, we find that the public interest would be served by amendment of § 22.521(b) of the Commission's Rules, assigning air-ground channel 4 frequency 454.800 MHz and signaling channel 454.675 MHz, to Mobile, Alabama, pursuant to our authority set forth in 47 U.S.C. 4(i), 303(g) and (r), and 307(b), as amended.

6. Accordingly, it is ordered, that effective 30 days after publication in the **Federal Register**, § 22.521(b) of the Commission's Rules is amended as set forth in the attached appendix.

7. It is further ordered, that this proceeding is terminated.

8. The Secretary shall cause this *Report and Order* to be published in the **Federal Register.**

Federal Communications Commission.

William J. Tricarico,

Secretary.

Appendix

PART 22—[AMENDED]

Part 22 of Title 47 of the CFR is amended as follows:

1. The authority citation for Part 22 continues to read:

Authority: 47 U.S.C. 4(i), 303(g) and (r), and 307(b), as amended.

§ 22.521 [Amended]

2. 47 CFR 22.521(b) is amended to add Mobile, Alabama to the table of assignments for air-ground stations in the Public Land Mobile Service, to read as follows:

* * * * *

(b) * * *

Location	Channel
Alabama:	
Mobile	4
Troy	10

* * * * *

[FR Doc. 85-13016 Filed 5-30-85; 8:45 am]

BILLING CODE 6712-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Office of the Secretary

48 CFR Parts 301, 304, 305, 306, 307, 313, 314, 315, 316, 319, 323, 332, 333, 337, 342, 352, and 370

Acquisition Regulation; Amendments

AGENCY: Department of Health and Human Services (HHS).

ACTION: Interim rule with request for comments.

SUMMARY: This interim rule amends the Department of Health and Human Services Acquisition Regulation (HHSAR), 48 CFR Chapter 3, to implement revisions to the Federal Acquisition Regulation (FAR), 48 CFR Chapter 1, resulting from the Competition in Contracting Act of 1984, Title VII of Pub. L. 98–369, and the Small Business and Federal Procurement Competition Enhancement Act of 1984, Pub. L. 98–577.

This interim rule also amends the HHSAR to indicate organizational nomenclature changes, reflect the recent transfer of construction and architect-engineer acquisition responsibilities from the Office of the Secretary to the Public Health Service, and make other administrative corrections.

DATES: Interim rule effective April 1, 1985; comments must be received on or before July 1, 1985.

ADDRESS: Comments should be mailed to the Office of Procurement and Logistics Policy, Office of Procurement, Assistance and Logistics, Room 513–D—Hubert H. Humphrey Building, Department of Health and Human Services, 200 Independence Avenue, SW., Washington, D.C. 20201.

FOR FURTHER INFORMATION CONTACT: E.S. Lanham (Procurement Analyst), (202) 245–8901.

SUPPLEMENTARY INFORMATION: This interim rule implements recently issued Federal Acquisition (Regulation) Circulars 84–5 and 84–6 published in the Federal Register on January 11, 1985 (50 FR 1725–1753) and January 15, 1985 (50 FR 2267–2272), respectively.

Amendments based on the Federal Acquisition Circulars range from nomenclature changes, such as insertion of the term "sealed bidding" for "formal advertising", to establishment of Part 306—Competition Requirements and deletion of four subparts in Part 315—Contracting by Negotiation.

Amendments are also being made to reflect nomenclature changes as a result of a recent reorganization within the Office of the Secretary and the transfer of acquisition responsibilities for construction and architect-engineer services to the Public Health Service.

In addition, section 315.608, which addresses the evaluation of proposals, is being restructured into the section format to make the information more definitive and readable. The information is not being changed.

Other amendments are being made to correct or refine administrative, procedural details which have become evident since the initial publication of the HHSAR on April 9, 1984 (49 FR 13959–14051).

The Department of Health and Human Services has submitted a copy of this interim rule to the Office of Management and Budget (OMB) for review in accordance with Executive Order 12291 and OMB Bulletin 85–7.

The Department of Health and Human Services certifies that this document will not have a significant economic effect on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 et. seq.); therefore, no regulatory flexibility analysis has been prepared. This interim rule does not contain information collection requirements which require the approval of the Office of Management and Budget under the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 et. seq.).

The provisions of this regulation are issued under 5 U.S.C. 301; 40 U.S.C. 486(c).

List of Subjects in 48 CFR Chapter 3

Government procurement.

Accordingly, the Department amends 48 CFR Chapter 3 as set forth below.

Dated: May 21, 1985.

Henry G. Kirschenmann, Jr.,

Deputy Assistant Secretary for Procurement, Assistance and Logistics.

As indicated in the preamble, Chapter 3 of Title 48, Code of Federal Regulations, is amended as shown.

1. The authority citation for Parts 301, 304, 305, 306, 307, 313, 314, 315, 316, 319, 323, 332, 333, 337, 342, 352, and 370 continues to read as follows:

Authority: 5 U.S.C. 301; 40 U.S.C. 486(c).

301.201, 301.270, 301.304, 301.403, 301.404, 301.470, and 316.702 [Amended]

2. In the sections listed below, remove the words "Director, Division of Procurement Policy" and insert, in their place, the words "Director, Office of Procurement and Logistics Policy":

301.201(b), 301.270(b), 301.304(a), 301.304(c), 301.304(d), 301.403, 301.404, 301.470(a), 316.702(d)(2).

307.7102, 314.406–3, 314.406–4 [Amended]

3. In the sections listed below, remove the words "Office of Evaluation and Compliance" and insert, in their place, the words "Office of Procurement and Logistic Policy":

307.7102(e), 314.406–3(e), 314.406–3(g)(3), 314.406–4(c).

304.7001, 305.102, 307.104–1, 319.201–70, 337.103 [Amended]

4. In the sections listed below, remove the words "formally advertised" or "advertised" and insert, in their place, the words "sealed bid":

304.7001(c), 305.102, 307.104–1(b), 307.104–1(c)(2), 307.104–1(c)(3), 319.201–70(d)(15), 337.103(c).

301.105 [Amended]

5. Section 301.105 is amended as follows: Under the heading "HHSAR segment", remove section designations "352.223–70" and "352.232–70". Under the heading "OMB control no.", remove the corresponding numbers "0990–0137" and "0990–0134", respectively.

301.201 [Amended]

6. Section 301.201(b) is amended by removing, in the first sentence, the words "Division of Procurement Policy, Office of Procurement and Assistance Policy," and inserting, in their place, the words "Office of Procurement and Logistic Policy,". In the second sentence, the words "Division of Procurement Policy" are removed and the words "Office of Procurement and Logistics Policy" are inserted in their place.

301.301 [Amended]

7. Section 301.301 is amended by designating the existing paragraph as "(a)(1)."

301.303 [Amended]

8. Section 301.303 is amended by revising the title to read "Publication and codification.", and by designating the existing paragraph as "(a)".

301.501 [Amended]

9. Under section 301.501, establish section 301.501–2 "Opportunity for public comments.", and insert it between section 301.501 and paragraph (b) so that paragraph (b) now becomes part of section 301.501–2. Redesignate paragraph (e) as section 301.501–3 "Exceptions.", remove the words "In addition to the two instances stated in FAR 1.501(e),", capitalize the letter "c" in "comments", and add at the end of the sentence the words "(see FAR 1.301(b))."

301.502 [Redesignated as 301.503]

10. Redesignate section 301.502 to read 301.503.

301.601 [Amended]

11. Section 301.601 is amended by removing, in the second sentence, the words "formal advertising and FAR 15.104 concerning authorization and approval with respect to contracting by negotiation" and inserting, in their place, the words "sealed bidding and FAR Part 6 which addresses competition requirements."

12. Part 301 is amended by adding a new Subpart 301.7 to read as follows:

Subpart 301.7—Determinations and Findings

Sec.
301.703 Class determinations and findings.
301.704 Content.

Subpart 301.7—Determinations and Findings

301.703 Class determinations and findings.

(b) All class determinations and findings (D&F's) shall be limited to a period of one year or less.

301.704 Content.

An example of a D&F format may be found in 316.301-3(c). All D&F's shall be prepared using the referenced format and shall include the information required by FAR 1.704(a)-(g).

304.7101 [Amended]

13. Section 304.7101 is amended as follows:

a. In paragraph (a), the second sentence is amended by removing the references "(b)(1), (2), or (3) below" and inserting, in their place, the references "(b)(1) or (2), below."

b. In paragraph (b)(1), remove the words "(except the Regional Operations for Facilities Engineering and Construction)"; also, remove the word "advertised" and insert, in its place, the words "sealed bid".

c. In paragraph (b)(2), correct the references to PHS Subpart 304.71 to read "Subpart PHS 304.71."

d. Remove paragraph (b)(3) in its entirety.

e. In paragraph (c), remove the words "and ROFECs" under the listing "Office of the Secretary and ROFECs". Also, in paragraph (c), under the listing "Public Health Service," correct the reference to FHS Subpart 304.71 to read "Subpart PHS 304.71", and remove the words "Director, Division of Procurement Policy," and insert, in their place, the words "Director, Office of Procurement and Logistics Policy,".

304.7102 [Amended]

14. Section 304.7102 is amended as follows:

a. In paragraph (b)(3)(i), removed the words "on a noncompetitive basis," and insert, in their place, the words "by other than full and open competition,"; also, remove the word "noncompetitive" as it appears later in the sentence.

b. In paragraph (b)(3)(ii), remove the words "and Part 305;" and insert, in their place, a semicolon.

c. In paragraph (b)(3)(vi), remove the words "cited negotiation authority, method of contracting," and insert, in their place, the words "type of contract".

305.102 [Amended]

15. Section 305.102 is amended by adding the words "See FAR 5.203 for publicizing and reponse time." as the last sentence to the existing paragraph.

16. A new Part 306 is added to read as follows:

PART 306—COMPETITION REQUIREMENTS

Subpart 306.2—Full and Open Competition After Exclusion of Sources

Sec.
306.202 Establishing or maintaining alternative sources.

Subpart 306.3—Other Than Full and Open Competition

306.302 Circumstances permitting other than full and open competition.
306.302-1 Only one responsible source.
306.302-7 Public interest.
306.303 Justifications.
306.303-1 Requirements.
306.303-2 Content.
306.304 Approval of the justification.

Subpart 306.4—Sealed Bidding and Competitive Proposals

306.401 Sealed bidding and competitive proposals.

Subpart 306.5—Competition Advocates

306.501 Requirement.
306.502 Duties and responsibilities.

Authority: 5 U.S.C. 301; 40 U.S.C. 486(c).

Subpart 306.2—Full and Open Competition After Exclusion of Sources

306.202 Establishing or maintaining alternative sources.

(a) The reference to the agency head in FAR 6.202(a) shall mean the head of the OPDIV for HCFA, OHDS, PHS, and SSA and the ASMB for OS.

(b) (1) The required determination and findings (D&F) shall be prepared by the contracting officer based on the data provided by program personnel, and shall be signed by the appropriate head of the OPDIV or ASMB. The D&F signatory authority is not delegable.

Subpart 306.3—Other Than Full and Open Competition

306.302 Circumstances permitting other than full and open competition.

306.301-1 Only one responsible source.

(b) *Application.* (2) Follow-on contracts for the continuation of major research and development studies on long-term social and health programs, major research studies, or clinical trails may be deemed to be available only from the original source when it is likely that award to any other source would result in unacceptable delays in fulfilling the Department's or OPDIV's requirements.

(6) When the OPDIV head has determined that: (i) a specific item of technical equipment or parts must be obtained to meet an activity's program responsibility to test and evaluate certain kinds and types of products, and only one source is available. (This criterion is limited to testing and evaluation purposes only and may not be used for initial outfitting or repetitive acquisitions. Project officers should support the use of this criterion with citations from their agency's legislation and the technical rationale for the item of equipment required.) or

(ii) There is existing equipment which, for reasons of compatibility and interchangeability, requires an item which is manufactured only by one source. (This criterion is for use in acquisitions where a particular brand name item is required, and an "or equal" will not meet the Government's requirements. This criterion may not be used when there are other manufacturers available which may be able to produce acceptable items even though their products might require some adjustments and modifications. These other manufacturers must be given the opportunity to compete.)

306.302-7 Public interest.

(a) *Authority.* (2) Agency head, in this instance, means the Secretary.

(c) *Limitations.* When using the authority cited in FAR 6.302-7(a)(1), the Secretary's approval must be obtained. Therefore, an "approval package" must be prepared and staffed through departmental acquisition channels to the Secretary. The package shall include:

(1) A determination and findings, prepared by the contracting officer, for the Secretary to sign.

(2) A letter for the Secretary to sign notifying Congress of the determination to award a contract under the authority

of 41 U.S.C. 253(c)(7). This letter must be received by Congress at least 30 days before contract award.

(3) A "Justification for Other than Full and Open Competition" (JOFOC).

(4) A briefing paper presenting background, need, etc.

(5) Any other pertinent papers or documents required by the Department.

306.303 Justifications.

306.303-1 Requirements.

(b) Preliminary arrangements or agreements with the proposed contractor made by someone other than the contracting officer shall have no effect on the rationale used to support an acquisition for other than full and open competition.

(f) The program office should discuss prospective other than full and open competition requests with their supporting contracting office as early as possible during the acquisition planning stage (see FAR Subpart 7.1 and Subpart 307.1), and before submitting the requisition or request for contract. The discussions may resolve uncertainties, provide program offices with names of other sources, allow proper scheduling of the acquisition, and avoid delays which might otherwise occur should it be determined that the request for other than full and open competition is not justified.

(g) When a program office desires to obtain certain goods or services by contract without full and open competition, it shall, at the time of forwarding the requisition or request for contract, furnish the contracting office a justification explaining why full and open competition is not feasible. All justifications shall be initially reviewed by the contracting officer.

(1) Justifications in excess of $25,000 shall be in the form of a separate, self-contained document, prepared in accordance with FAR 6.303 and 306.303, and called a "JOFOC" (Justification for Other than Full and Open Competition). Justifications of $25,000 or less may be in the form of a paragraph or paragraphs contained in the requisition or request for contract.

(2) Justifications, whether over or under $25,000, shall fully describe what is to be acquired, offer reasons which go beyond inconvenience, and explain why it is not feasible to obtain competition. The justifications shall be supported by verifiable facts rather than mere opinions. Documentation in the justifications should be sufficient to permit an individual with technical competence in the area to follow the rationale.

306.303-2 Content.

(a)(1) The program office and name, address, and telephone number of the project officer shall also be included.

(2) This item shall include project identification such as the authorizing program legislation, to include citations or other internal program identification data such as title, contract number, etc.

(3) A full description of the requirement and its dollar amount is to be included. It may be in the form of a statement of work, purchase description, or specification. A statement is to be included to explain whether the acquisition is an entity in itself, whether it is one in a series, or part of a related group of acquisitions.

(c) Each JOFOC shall conclude with at least the following signatory lines (other concurrence lines may be added as deemed necessary by the contracting activity):

Recommended, Project Officer _____
Date _____
Concur, Project Officer's Immediate Supervisor _____
Date _____
Concur, Contracting Officer _____
Date _____
Approved, Approving Official _____
Date _____

306.304 Approval of the justification.

(a)(1) For small purchases over $1,000 up to and including $25,000, the contracting officer is authorized to review and approve (or disapprove) the justification (see 313.106(c)(2)). For acquisitions over $25,000, but not exceeding $100,000, the JOFOC shall be submitted to the contracting officer for review. The contracting officer will either concur or nonconcur, and forward the JOFOC to the principal official responsible for acquisition for approval. (When the contracting officer and principal official responsible for acquisition are the same individual, the approval will be made by the respective official listed in 306.501.) The principal official responsible for acquisition may redelegate approval for acquisitions between $25,000 and $50,000 to the chief of the contracting office, provided that individual is at least one level above the contracting officer who will sign the contract.

(2) The competition advocates are listed in 306.501.

(3) The following shall serve as the approving officials referenced in FAR 6.304(a)(3):

HCFA—Administrator for Health Care Financing
OHDS—Assistant Secretary for Human Development Services
OS—Assistant Secretary for Management and Budget
PHS—Assistant Secretary for Health (may be delegated to the Deputy Assistant Secretary for Health Operations)
SSA—Commissioner of Social Security
RO's—Regional Director

This authority is not delegable, except as indicated for PHS.

(4) The senior procurement executive of the Department is the Assistant Secretary for Management and Budget.

(c) A class justification shall be processed the same as an individual justification.

(d) The contracting officer who receives a JOFOC for processing shall, after ascertaining that the document is complete, request advice from pricing, audit, legal, and other appropriate staff offices, and forward the JOFOC with his or her concurrence or nonconcurrence, to the appropriate approving official. When the contracting officer does not concur with the JOFOC, a written explanation setting forth the reasons must be provided the approving official. If the JOFOC is disapproved by the approving official, the contracting officer shall promptly notify the concerned program office.

(e) It is the responsibility of the approving official to determine whether a contract may properly be awarded without full and open competition. The program office and project officer are responsible for furnishing the contracting officer and approving official with pertinent supporting information necessary to make such determinations. Other staff offices shall advise the contracting officer and approving official as requested.

(f) As each justification is reviewed, the approving official should ask: why the acquisition cannot be competed, are there sufficient grounds for excluding all other actual or potential sources, what actions can be taken to obtain full and open competition in the instant acquisition, and what actions are needed to avoid the need for a subsequent or continuing acquisition that is for other than full and open competition?

Subpart 306.4—Sealed Bidding and Competitive Proposals

306.401 Sealed bidding and competitive proposals.

The requirement in FAR 6.401 to document the reasons sealed bidding is not appropriate may be accomplished by adding a sentence to the negotiation memorandum (see 315.672) specifying which criterion (or criteria) listed in FAR 6.401(a) is (are) not applicable to the acquisition.

Subpart 306.5—Competition Advocates

306.501 Requirement.

The Department's competition advocate is the Director, Office of Procurement and Logistics Policy, OPAL. The competition advocates for the Department's primary contracting offices are as follows:

HCFA—Associate Administrator for Management and Support Services
OHDS—Director, Office of Management Services
OS—Director, Office of Facilities and Management Services
OASH—Director, Administrative Services Center
ADAMHA—Associate Administrator for Management
CDC—Director, Office of Program Support
FDA—Associate Commissioner for Management and Operations
HRSA—Associate Administrator for Operations and Management
NIH—(R&D)—Associate Director for Extramural Affairs (Other than R&D)—Associate Director for Research Services
SSA—Associate Commissioner for Management, Budget, and Personnel
RO's—Director, Regional Administrative Support Center

306.502 Duties and responsibilities.

(b) The competition advocates listed in 306.501 shall assist the Department's competition advocate, when requested, by providing data and reports to aid in the accomplishment of the duties required of the Department's competitive advocate as stated in FAR 6.502(a). The competition advocates for the PHS activities shall report to, and receive direction from, the PHS competition advocate, the Deputy Assistant Secretary for Health Operations.

17. Section 307.104 is amended by designating the existing paragraph as "(a)" and adding the following as paragraph (c):

307.104 General procedures.

* * * * *

(c) The competition advocate's authority to review and approve acquisition plans proposing to use other than full and open competition may be delegated to the principal official responsible for acquisition.

307.105-1 [Amended]

18. Section 307.105-1 is amended as follows:

a. In paragraph (b)(9), remove the words "a planned noncompetitive acquisition" and insert, in their place, the words "an acquisition, which is planned to be awarded using other than full and open competition,".

b. In paragraph (c)(1), remove the sentence "If a noncompetitive acquisition is to be recommended, discuss why competition is not feasible." and insert, in its place, the sentence "Address the pertinent areas stated in FAR 7.105(b)(2)."

c. Remove paragraph (c)(3), and redesignate paragraphs (c)(4) and (c)(5) as (c)(3) and (c)(4), respectivley.

19. Section 307.105-2 is amended as follows:

a. In paragraph (a)(4), correct the dollar amounts to read $135,000 instead of $100,000.

b. Revise paragraph (a)(5).

c. Remove paragraph (a)(10), and redesignate paragraphs (a)(11) through (a)(16) as (a)(10) through (a)(15), respectively.

d. In the newly redesignated paragraph (a)(14), correct the word "product" in the first sentence to read "production."

307.105-2 Special program clearances or approvals.

(a) * * *

(5) *Commercial activities.* (OMB Circular No. A-76) A request for contract (RFC) must contain a statement as to whether the proposed solicitation is or is not to be used as part of an OMB Circular No. A-76 cost comparison. (See General Administrative Manual (GAM) Chapter 18-10; FAR Subpart 7.3, Subpart 307.3; OMB Circular No. A-76.)

* * * * *

307.7101 [Amended]

20 Section 307.7101 is amended by removing the word "noncompetitive," in the second sentence of paragraph (a) and inserting, in its place, the words "other than full and open competition,".

313.104 [Amended]

21. Section 313.104 is amended as follows:

a. Paragraph (a) is removed.

b. Paragraphs (g), (h), and (i) are redesignated as paragraphs (h), (i), and (j), respectively.

c. Newly redesignated paragraph (h) is further amended by removing the words "formal advertising" and inserting the words "sealed bidding" in the third sentence.

22. Subpart 313.1 is amended by adding a new section 313.105 to read as follows:

313.105 Small business—small purchase set-asides.

(d)(2) However, the contracting officer shall consult with the small and disadvantaged business utilization specialist (SADBUS) to determine whether small business sources are known by the SADBUS or may be obtained from the Small Business Administration's Procurement Center Representative, trade associations, or other Federal agencies before determining not to proceed with the small business—small purchase set-aside.

23. Section 313.106 is amended as follows:

a. In the first sentence of paragraph (a), remove the words "Subpart 315.71 which requires a written justification for a noncompetitive acquisition." and insert, in their place, the words "FAR Subpart 6.3 and Subpart 306.3." In the second sentence of paragraph (a), remove the words "a noncompetitive acquisition (see Subpart 315.71)." and insert, in their place, the words "other than full and open competition (see FAR Subpart 6.3)."

b. Add paragraph (b)(4)(i)(D).

c. In paragraph (c)(2), in the first sentence, remove the word "noncompetitively" and insert, in its place, the words "without full and open competition". In the second sentence, remove the word "statement" and insert, in its place, the words "paragraph or paragraphs", and remove the term "Subpart 315.71" and insert, in its place, the terms "FAR Subpart 6.3 and Subpart 306.3." In the third sentence, remove the words "up to $10,000", and remove the period at the end of the sentence and add the reference "(see 306.304(a)(1))."

313.106 Competition and price reasonableness.

* * * * *

(b) *Purchases over $1,000.*

(4)(i)(D) Small women-owned business.

* * * * *

24. Section 314.407-8 is revised.

314.407-8 Protests against award.

See Subpart 333.1—Protests.

Subparts 315.1, 315.2, and 315.3 [Removed]

25. Subparts 315.1, 315.2, and 315.3 are removed.

315.406-1 [Amended]

26. Section 315.406-1 is amended by correcting the reference to Table 15-2 to read "Table 15-1".

27. Section 315.470 is amended by revising the first sentence to read as follows:

315.470 Review of RFP.

The principal official responsible for acquisition shall establish procedures to ensure that an independent review of the RFP is made between the time the synopsis is sent to the Commerce

Business Daily announcing the availability of the RFP and the release date of the RFP. * * *

315.507 [Removed]

28. Section 315.507 is removed.

29. Section 315.608 is revised, and sections 315.608–70 through 315.608–77 are added immediately following section 315.608 to read:

315.608 Proposal evaluation.

(a)(1) *Cost of price evaluation.* (See 315.608–77.)

(2) *Technical evaluation.* (See 315.608–75 and 76.)

(b) The determination required by FAR 15.608(b) shall be made by the OPDIV head.

315.608–70 Technical evaluation plan.

(a) A technical evaluation plan may be required by the contracting officer, at his/her discretion, when an acquisition is sufficiently complex as to warrant a formal plan.

(b) The technical evaluation plan should include at least the following:

(1) A list of technical evaluation panel members, their organizations as well as a list of their major consulting clients (if applicable), their qualifications, and curricula vitae (if available);

(2) A justification for using non-Government technical evaluation panel members. (Justification is not required if non-Government evaluators will be used in accordance with standard contracting activity procedures or policies);

(3) A statement that there is no apparent or actual conflict of interest regarding any panel member;

(4) A copy of each rating sheet, approved by the contracting officer, to be used to assure consistency with the evaluation criteria; and

(5) A brief description of the general evaluation approach.

(c) The technical evaluation plan must be signed by an official within the program office in a position at least one level above the project officer or in accordance with contracting activity procedures.

(d) The technical evaluation plan should be submitted to the contracting officer for review and approval before the solicitation is issued. The contracting officer shall make sure that the principal factors relating to the evaluation are reflected in the evaluation criteria when conducting the review of the plan.

315.608–71 Technical evaluation panel.

(a) *General.* A technical evaluation panel is required for all acquisitions applicable to this subpart which are expected to exceed $250,000. The contracting officer has the discretion to require a technical evaluation panel for acquisitions not exceeding $250,000 based on the complexity of the acquisition.

(2) The technical evaluation process requires careful consideration regarding the size, composition, expertise, and function of the technical evaluation panel. The efforts of the panel can result in the success or failure of the acquisition.

(b) *Role of the project officer.* (1) The project officer is the contracting officer's technical representative for the acquisition action. The project officer may be a voting member of the technical evaluation panel, and may also serve as the chairperson of the panel, unless prohibited by law or contracting activity procedures.

(2) The project officer is responsible for recommending panel members who are knowledgeable in the technical aspects of the acquisition and who are competent to identify strengths and weaknesses of the various proposals. The program training requirements specified in 307.170 must be adhered to when selecting prospective panel members.

(3) The project officer shall ensure that persons possessing expertise and experience in addressing issues relative to sex, race, national origin, and handicapped discrimination be included as panel members in acquisitions which address those issues. The intent is to balance the composition of the panel so that qualified and concerned individuals may provide insight to other panel members regarding ideas and approaches to be taken in the evaluation of proposals.

(4) The project officer is to submit the recommended list of panel members to an official within the program office in a position at least one level above the project officer or in accordance with contracting activity procedures. This official will review the recommendations, appoint the panel members, and select the chairperson.

(5) The project officer shall arrange for adequate and secure working space for the panel.

(c) *Role of the contracting officer.* (1) the contracting officer is the Department's official representative with delegated acquisition authority to enter into and administer contracts. The term "contracting officer," as used in this subpart, may be the contracting officer or his/her designated representative within the contracting office.

(2) The contracting officer shall not serve as a member of the technical evaluation panel but should be available to:

(i) Address the initial meeting of the technical evaluation panel (see 315.608–74(c));

(ii) Provide assistance to the evaluators as required; and

(iii) Ensure that the scores adequately reflect the written technical evaluation report comments (see 315.608–76).

(d) *Conflicts of interest.* (1) If a panel member has an actual or apparent conflict of interest related to a proposal under evaluation, he/she shall be removed from the panel and replaced with another evaluator. If a suitable replacement is not available, the panel shall perform the review without a replacement.

(2) For the purposes of this subpart, conflicts of interest are defined in the Department's Standards of Conduct set forth in 45 CFR Part 73 which incorporates 5 CFR Part 737, Post Employment Conflict of Interest. The Standards of Conduct shall be applicable to both in-house personnel and outside evaluators serving on the technical evaluation panel.

(e) *Continuity of evaluation process.* (1) The technical evaluation panel is responsible for evaluating the original proposals, making recommendations to the chairperson regarding clarifications and deficiencies of proposals, and, if required by the contracting officer, assisting the contracting officer during discussions and negotiations, and reviewing supplemental, revised and/or "best and final" offers. To the extent possible, the same evaluators should be available throughout the entire evaluation and selection process to ensure continuity and consistency in the treatment of proposals. The following are examples of circumstances when it would *not* be necessary for the technical evaluation panel to evaluate revised proposals submitted during the acquisition:

(i) The answers to questions do not have a substantial impact on the proposal (see 315.609(i));

(ii) The "best and final" offers are not materially different from the original proposals; or

(iii) The rankings of the offerors are not affected because the revisions to the proposals are relatively minor.

(2) The chairperson, with the concurrence of the contracting officer, may decide not to have the panel evaluate the revised proposals. Whenever this decision is made, it must be fully documented by the chairperson and approved by the contracting officer.

(3) When technical evaluation panel meetings are considered necessary by

the contracting officer, the attendance of evaluators is mandatory. When the chairperson determines that an evaluator's failure to attend the meetings is prejudicial to the evaluation, the chairperson shall replace the individual after discussing the situation with the contracting officer and obtaining his/her concurrence and the approval of the program official responsible for appointing the panel members (see 315.608-71(b)(4)).

(4) Whenever continuity of the evaluation process is not possible, and either new evaluators are selected or a reduced panel is decided upon, each proposal which is being reviewed at any stage of the acquisition shall be reviewed at that stage by all members of the revised panel unless it is impractical to do so because of the receipt of an unusually large number of proposals.

(f) *Use of outside evaluators.* (1) The technical evaluation panel shall be composed of Government employees except when outside evaluators possess a required expertise which is not available within the Government, or as required by law.

(2) The National Institutes of Health (NIH) and the Alcohol, Drug Abuse, and Mental Health Administration (ADAMHA) are required to have a peer review of research and development contracts in accordance with Pub. L. (Pub. L.) 93-352 as amended by Pub. L. 94-63; 42 U.S.C. 289 1-4. This legislation requires peer review of projects and proposals, and not more than one-fourth of the members of a peer review group may be officers or employees of the United States. NIH and ADAMHA are therefore exempt from the provisions of 315.608-71 to the extent that 42 U.S.C. 289 1-4 applies.

315.608-72 Procedures for handling and disclosing proposals.

(a) The procedures and notice specified in FAR 15.413-2 and 315.413-2 shall be used in handling solicited proposals and for disclosing proposals outside the Government for evaluation purposes. (For unsolicited proposals, see FAR 15.509 and 315.509.)

(b) Decisions to disclose proposals outside the Government for evaluation purposes shall be made by the chief official having programmatic responsibility for the acquisition, after consultation with the contracting officer and in accordance with operating division procedures. The decision to disclose either a solicited or unsolicited proposal outside the Government for the purpose of obtaining an evaluation shall take into consideration the avoidance of organizational conflicts of interest and any competitive relationship between the submitter of the proposal and the prospective evaluator(s).

(c) When it is determined to disclose a solicited proposal outside the Government for evaluation purposes, the following or similar conditions shall be included in the written agreement with the evaluator(s) prior to disclosure (see FAR 15.413-2(f) and 315.413-2(f)). Also, a review must be made to ensure that the notice required by FAR 15.413-2(e) is affixed to the proposal before it is disclosed to the evaluator(s).

Conditions for Evaluating Proposals

The evaluator agrees to use the data (trade secrets, business data, and technical data) contained in the proposal only for evaluation purposes.

This requirement does not apply to data obtained from another source without restriction.

Any notice or legend placed on the proposal by either the Department or the submitter of the proposal shall be applied to any reproduction or abstract provided to the evaluator or made by the evaluator. Upon completion of the evaluation, the evaluator shall return the Government-furnished copy of the proposal or abstract, and all copies thereof, to the Departmental office which initially furnished the proposal for evaluation.

Unless authorized by the Department's initiating office, the evaluator shall not contact the submitter of the proposal concerning any apsects of its contents.

The evaluator will be obligated to obtain commitments from its employees and subcontractors, if any, in order to effect the purposes of these conditions.

315.608-73 Receipt of proposals.

(a) After the closing date set by the solicitation for the receipt of proposals, the contracting officer will use a transmittal memorandum to forward the technical proposals to the project officer or chairperson for evaluation. The business proposals will be retained by the contracting officer for evaluation (see 315.608-77).

(b) The transmittal memorandum to the chairperson shall include at least the following:

(1) A list of the names of the organizations submitting proposals;

(2) A reference to 315.604(d) on the need to preserve the integrity of the source selection process;

(3) A requirement for a technical evaluation report in accordance with 315.608-76; and

(4) The establishment of a date for receipt of the technical evaluation report.

315.608-74 Convening the technical evaluation panel.

(a) Normally, the technical evaluation panel will convene to evaluate the proposals. However, there may be situations when the contracting officer determines that it is not feasible for the panel to convene. Whenever this decision is made, care must be taken to assure that the technical review is closely monitored to produce acceptable results.

(b) When a panel is convened, the chairperson is responsible for the control of the technical proposals provided to him/her by the contracting officer for use during the evaluation process. The chairperson will generally distribute the technical proposals at the initial panel meeting and will establish procedures for securing the proposals whenever they are not being evaluated to insure their confidentiality. After the evaluation is complete, all proposals must be returned to the contracting officer, destroyed or filed in an appropriate manner to maintain the confidential nature of the data.

(c) The contracting officer shall address the initial meeting of the panel and state the basic rules for conducting the evaluation. The contracting officer shall provide written guidance to the panel if he/she is unable to attend the initial panel meeting. The guidance should include:

(1) An explanation of conflicts of interest (see 315.608-71(d));

(2) The necessity to read and understand the solicitation, especially the statement of work and evaluation criteria, prior to reading the proposals;

(3) The need for evaluators to restrict the review to only the solicitation and the contents of the technical proposals;

(4) The need for each evaluator to review all the proposals;

(5) The need to watch for ambiguities, inconsistencies, errors, and deficiencies which should be surfaced during the evaluation process;

(6) An explanation of the evaluation process and what will be expected of the evaluators throughout the process;

(7) The need for the evaluators to be aware of the requirement to have complete written documentation of the individual strengths and weaknesses which affect the scoring of the proposals; and

(8) An instruction directing the evaluators that, until the award is made, information concerning the acquisition must not be disclosed to any person not directly involved in the evaluation process.

315.608-75 Rating and ranking of proposals.

The evaluators will individually read each proposal, describe tentative strengths and weaknesses, and develop preliminary scores in relation to each

Business Daily announcing the availability of the RFP and the release date of the RFP. * * *

315.507 [Removed]

28. Section 315.507 is removed.

29. Section 315.608 is revised, and sections 315.608–70 through 315.608–77 are added immediately following section 315.608 to read:

315.608 Proposal evaluation.

(a)(1) *Cost of price evaluation.* (See 315.608–77.)

(2) *Technical evaluation.* (See 315.608–75 and 76.)

(b) The determination required by FAR 15.608(b) shall be made by the OPDIV head.

315.608–70 Technical evaluation plan.

(a) A technical evaluation plan may be required by the contracting officer, at his/her discretion, when an acquisition is sufficiently complex as to warrant a formal plan.

(b) The technical evaluation plan should include at least the following:

(1) A list of technical evaluation panel members, their organizations as well as a list of their major consulting clients (if applicable), their qualifications, and curricula vitae (if available);

(2) A justification for using non-Government technical evaluation panel members. (Justification is not required if non-Government evaluators will be used in accordance with standard contracting activity procedures or policies);

(3) A statement that there is no apparent or actual conflict of interest regarding any panel member;

(4) A copy of each rating sheet, approved by the contracting officer, to be used to assure consistency with the evaluation criteria; and

(5) A brief description of the general evaluation approach.

(c) The technical evaluation plan must be signed by an official within the program office in a position at least one level above the project officer or in accordance with contracting activity procedures.

(d) The technical evaluation plan should be submitted to the contracting officer for review and approval before the solicitation is issued. The contracting officer shall make sure that the principal factors relating to the evaluation are reflected in the evaluation criteria when conducting the review of the plan.

315.608–71 Technical evaluation panel.

(a) *General.* A technical evaluation panel is required for all acquisitions applicable to this subpart which are expected to exceed $250,000. The contracting officer has the discretion to require a technical evaluation panel for acquisitions not exceeding $250,000 based on the complexity of the acquisition.

(2) The technical evaluation process requires careful consideration regarding the size, composition, expertise, and function of the technical evaluation panel. The efforts of the panel can result in the success or failure of the acquisition.

(b) *Role of the project officer.* (1) The project officer is the contracting officer's technical representative for the acquisition action. The project officer may be a voting member of the technical evaluation panel, and may also serve as the chairperson of the panel, unless prohibited by law or contracting activity procedures.

(2) The project officer is responsible for recommending panel members who are knowledgeable in the technical aspects of the acquisition and who are competent to identify strengths and weaknesses of the various proposals. The program training requirements specified in 307.170 must be adhered to when selecting prospective panel members.

(3) The project officer shall ensure that persons possessing expertise and experience in addressing issues relative to sex, race, national origin, and handicapped discrimination be included as panel members in acquisitions which address those issues. The intent is to balance the composition of the panel so that qualified and concerned individuals may provide insight to other panel members regarding ideas and approaches to be taken in the evaluation of proposals.

(4) The project officer is to submit the recommended list of panel members to an official within the program office in a position at least one level above the project officer or in accordance with contracting activity procedures. This official will review the recommendations, appoint the panel members, and select the chairperson.

(5) The project officer shall arrange for adequate and secure working space for the panel.

(c) *Role of the contracting officer.* (1) the contracting officer is the Department's official representative with delegated acquisition authority to enter into and administer contracts. The term "contracting officer," as used in this subpart, may be the contracting officer or his/her designated representative within the contracting office.

(2) The contracting officer shall not serve as a member of the technical evaluation panel but should be available to:

(i) Address the initial meeting of the technical evaluation panel (see 315.608–74(c));

(ii) Provide assistance to the evaluators as required; and

(iii) Ensure that the scores adequately reflect the written technical evaluation report comments (see 315.608–76).

(d) *Conflicts of interest.* (1) If a panel member has an actual or apparent conflict of interest related to a proposal under evaluation, he/she shall be removed from the panel and replaced with another evaluator. If a suitable replacement is not available, the panel shall perform the review without a replacement.

(2) For the purposes of this subpart, conflicts of interest are defined in the Department's Standards of Conduct set forth in 45 CFR Part 73 which incorporates 5 CFR Part 737, Post Employment Conflict of Interest. The Standards of Conduct shall be applicable to both in-house personnel and outside evaluators serving on the technical evaluation panel.

(e) *Continuity of evaluation process.* (1) The technical evaluation panel is responsible for evaluating the original proposals, making recommendations to the chairperson regarding clarifications and deficiencies of proposals, and, if required by the contracting officer, assisting the contracting officer during discussions and negotiations, and reviewing supplemental, revised and/or "best and final" offers. To the extent possible, the same evaluators should be available throughout the entire evaluation and selection process to ensure continuity and consistency in the treatment of proposals. The following are examples of circumstances when it would *not* be necessary for the technical evaluation panel to evaluate revised proposals submitted during the acquisition:

(i) The answers to questions do not have a substantial impact on the proposal (see 315.609(i));

(ii) The "best and final" offers are not materially different from the original proposals; or

(iii) The rankings of the offerors are not affected because the revisions to the proposals are relatively minor.

(2) The chairperson, with the concurrence of the contracting officer, may decide not to have the panel evaluate the revised proposals. Whenever this decision is made, it must be fully documented by the chairperson and approved by the contracting officer.

(3) When technical evaluation panel meetings are considered necessary by

the contracting officer, the attendance of evaluators is mandatory. When the chairperson determines that an evaluator's failure to attend the meetings is prejudicial to the evaluation, the chairperson shall replace the individual after discussing the situation with the contracting officer and obtaining his/her concurrence and the approval of the program official responsible for appointing the panel members (see 315.608-71(b)(4)).

(4) Whenever continuity of the evaluation process is not possible, and either new evaluators are selected or a reduced panel is decided upon, each proposal which is being reviewed at any stage of the acquisition shall be reviewed at that stage by all members of the revised panel unless it is impractical to do so because of the receipt of an unusually large number of proposals.

(f) *Use of outside evaluators.* (1) The technical evaluation panel shall be composed of Government employees except when outside evaluators possess a required expertise which is not available within the Government, or as required by law.

(2) The National Institutes of Health (NIH) and the Alcohol, Drug Abuse, and Mental Health Administration (ADAMHA) are required to have a peer review of research and development contracts in accordance with Pub. L. (Pub. L.) 93-352 as amended by Pub. L. 94-63; 42 U.S.C. 289 1-4. This legislation requires peer review of projects and proposals, and not more than one-fourth of the members of a peer review group may be officers or employees of the United States. NIH and ADAMHA are therefore exempt from the provisions of 315.608-71 to the extent that 42 U.S.C. 289 1-4 applies.

315.608-72 Procedures for handling and disclosing proposals.

(a) The procedures and notice specified in FAR 15.413-2 and 315.413-2 shall be used in handling solicited proposals and for disclosing proposals outside the Government for evaluation purposes. (For unsolicited proposals, see FAR 15.509 and 315.509.)

(b) Decisions to disclose proposals outside the Government for evaluation purposes shall be made by the chief official having programmatic responsibility for the acquisition, after consultation with the contracting officer and in accordance with operating division procedures. The decision to disclose either a solicited or unsolicited proposal outside the Government for the purpose of obtaining an evaluation shall take into consideration the avoidance of organizational conflicts of interest and any competitive relationship between the submitter of the proposal and the prospective evaluator(s).

(c) When it is determined to disclose a solicited proposal outside the Government for evaluation purposes, the following or similar conditions shall be included in the written agreement with the evaluator(s) prior to disclosure (see FAR 15.413-2(f) and 315.413-2(f)). Also, a review must be made to ensure that the notice required by FAR 15.413-2(e) is affixed to the proposal before it is disclosed to the evaluator(s).

Conditions for Evaluating Proposals

The evaluator agrees to use the data (trade secrets, business data, and technical data) contained in the proposal only for evaluation purposes.

This requirement does not apply to data obtained from another source without restriction.

Any notice or legend placed on the proposal by either the Department or the submitter of the proposal shall be applied to any reproduction or abstract provided to the evaluator or made by the evaluator. Upon completion of the evaluation, the evaluator shall return the Government-furnished copy of the proposal or abstract, and all copies thereof, to the Departmental office which initially furnished the proposal for evaluation.

Unless authorized by the Department's initiating office, the evaluator shall not contact the submitter of the proposal concerning any apsects of its contents.

The evaluator will be obligated to obtain commitments from its employees and subcontractors, if any, in order to effect the purposes of these conditions.

315.608-73 Receipt of proposals.

(a) After the closing date set by the solicitation for the receipt of proposals, the contracting officer will use a transmittal memorandum to forward the technical proposals to the project officer or chairperson for evaluation. The business proposals will be retained by the contracting officer for evaluation (see 315.608-77).

(b) The transmittal memorandum to the chairperson shall include at least the following:

(1) A list of the names of the organizations submitting proposals;

(2) A reference to 315.604(d) on the need to preserve the integrity of the source selection process;

(3) A requirement for a technical evaluation report in accordance with 315.608-76; and

(4) The establishment of a date for receipt of the technical evaluation report.

315.608-74 Convening the technical evaluation panel.

(a) Normally, the technical evaluation panel will convene to evaluate the proposals. However, there may be situations when the contracting officer determines that it is not feasible for the panel to convene. Whenever this decision is made, care must be taken to assure that the technical review is closely monitored to produce acceptable results.

(b) When a panel is convened, the chairperson is responsible for the control of the technical proposals provided to him/her by the contracting officer for use during the evaluation process. The chairperson will generally distribute the technical proposals at the initial panel meeting and will establish procedures for securing the proposals whenever they are not being evaluated to insure their confidentiality. After the evaluation is complete, all proposals must be returned to the contracting officer, destroyed or filed in an appropriate manner to maintain the confidential nature of the data.

(c) The contracting officer shall address the initial meeting of the panel and state the basic rules for conducting the evaluation. The contracting officer shall provide written guidance to the panel if he/she is unable to attend the initial panel meeting. The guidance should include:

(1) An explanation of conflicts of interest (see 315.608-71(d));

(2) The necessity to read and understand the solicitation, especially the statement of work and evaluation criteria, prior to reading the proposals;

(3) The need for evaluators to restrict the review to only the solicitation and the contents of the technical proposals;

(4) The need for each evaluator to review all the proposals;

(5) The need to watch for ambiguities, inconsistencies, errors, and deficiencies which should be surfaced during the evaluation process;

(6) An explanation of the evaluation process and what will be expected of the evaluators throughout the process;

(7) The need for the evaluators to be aware of the requirement to have complete written documentation of the individual strengths and weaknesses which affect the scoring of the proposals; and

(8) An instruction directing the evaluators that, until the award is made, information concerning the acquisition must not be disclosed to any person not directly involved in the evaluation process.

315.608-75 Rating and ranking of proposals.

The evaluators will individually read each proposal, describe tentative strengths and weaknesses, and develop preliminary scores in relation to each

evaluation criterion set forth in the solicitation. The evaluators will use the rating sheets either in the technical evaluation plan or approved by the contracting officer when a technical evaluation plan is not required (see 315.608-70). After this has been accomplished, the evaluators shall discuss in detail the individual strengths and weaknesses described by each evaluator and, if possible, arrive at a common understanding of the major strengths and weaknesses and the potential for correcting each offeror's weakness(es). Each evaluator will score each proposal, and then the technical evaluation panel will collectively rank the proposals. Generally, ranking will be determined by adding the numerical scores assigned to the evaluation criteria and finding the average for each offeror. The evaluators should then identify whether each proposal is acceptable or unacceptable. Predetermined cutoff scores shall not be employed.

315.608-76 Technical evaluation report.

A technical evaluation report shall be prepared and furnished to the contracting officer by the chairperson and maintained as a permanent record in the contract file. The report must reflect the ranking of the proposals and identify each proposal as acceptable or unacceptable in accordance with 315.608-75. The report must also include a narrative evaluation specifying the strengths and weaknesses of each proposal, a copy of each rating sheet, and any reservations, qualifications, or areas to be addressed that might bear upon the selection of sources for negotiation and award. Concrete technical reasons supporting a determination of unacceptability with regard to any proposal must be included. The report should also include specific points and questions which are to be raised in discussions or negotiations.

315.608-77 Evaluation of business proposals.

(a) The contracting officer shall evaluate the business proposals concurrently with the evaluation of the technical proposals. The contracting officer must adhere to the requirements for cost or price analysis included in FAR 15.805-1 for each business proposal in the competitive range. An audit report may be required in accordance with FAR 15.805-5 and 315.805-5. The contracting officer must determine the extent of analysis in each case depending on the amount of the proposal, the technical complexity and related cost or price, and cost realism. The contracting officer should request the project officer to analyze such items as the number of labor hours proposed for various labor categories; the mix of labor hours and categories of labor in relation to the technical requirements of the project; the kinds and quantities of material, equipment, and supplies; types, numbers, and hours/days of proposed consultants; logic of proposed subcontracting; analysis of the travel proposed including number of trips, locations, purpose, and travelers; and kinds and quantities of data processing. The project officer shall provide his/her opinion as to whether these elements are necessary and reasonable for efficient contract performance. Exceptions to proposed elements shall be supported by adequate rationale to allow for effective negotiations. The contracting officer should also request the assistance of a cost/price analyst when considered necessary. In all cases, the negotiation memorandum (see 315.672) must include the rationale used in determining that the price or cost is fair and reasonable.

(b) The contracting officer must appraise the management capability of the offeror to perform the required work in a timely manner. In making this appraisal, the contracting officer should consider factors such as the offeror's management organization, past performance, reputation for reliability, availability of the required facilities, and cost controls. This information is to be used by the contracting officer to determine the offeror's responsibility.

315.672 [Amended]

30. Section 315.672 is amended as follows:

a. Remove paragraph (b), and redesignate paragraphs (c) through (p) as paragraphs (b) through (o), respectively.

b. In newly redesignated paragraph (e), add the words "full and open" between the word "which" and the word "competition" in the first sentence; in the fourth sentence, remove the words "on a noncompetitive basis," and insert, in their place, the words "without full and open competition,"; and remove the last sentence.

c. In the first sentence of newly redesignated paragraph (h), remove the words "the acquisition is competitive," and insert, in their place, the words "full and open competition,".

d. In newly redesignated paragraph (l)(7), remove the words "on a competitive basis," and insert, in their place, the words "by full and open competition,".

Subpart 315.10—[Amended]

31. Subpart 315.10 is amended by revising the title to read:

"Subpart 315.10—Preaward, Award, and Postaward Notifications, Protests, and Mistakes".

315.1001 [Redesignated as 315.1000]

32. Section 315.1001 is amended by revising the section designation and title to read: "315.1000 General.".

315.1002, 315.1003, 315.1004 [Redesignated as 315.1003, 315.1004, and 315.1005]

33. Sections 315.1002, 315.1003, and 315.1004 are redesignated as sections 315.1003, 315.1004, and 315.1005, respectively.

315.1003 [Amended]

34. Newly redesignated section 315.1003 is amended by adding in the first sentence of paragraph (a) a comma and the words "without any discussion regarding the merits or deficiencies of the unsuccessful offeror's proposal," after the word "immediately" and before the word "refer".

315.1004 [Amended]

35. Newly redesignated section 315.1004 is amended by removing the reference "314.407-8." and inserting, in its place, the reference "Subpart 333.1."

36. Section 315.7005 is amended by revising paragraph (c)(3); by removing paragraph (c)(4); and by redesignating paragraph (c)(5) as paragraph (c)(4).

315.7005 Format and content.

* * * * *

(c) * * *

(3) *Justification for other than full and open competition.* If the proposed acquisition is to be awarded using other than full and open competition, a justification, prepared in accordance with FAR Subpart 6.3 and Subpart 306.3, must be submitted as an attachment to the RFC.

* * * * *

Subpart 315.71—[Removed]

37. Subpart 315.71 is removed.

316.301-3 [Amended]

38. Section 316.301-3 is amended by adding to the clause the words "and in accordance with FAR 16.301-3," after the word "findings," and before the word "it" in the paragraph beginning "On the basis of."

316.702 [Amended]

39. Section 316.702 is amended as follows:

a. In the second sentence of paragraph (f)(1), by removing the words "Division of Procurement Policy (DPP)." and inserting, in their place, the words "Office of Procurement and Logistics Policy (OPLP)." In the third sentence of the same paragraph, remove the acronym "DPP," and insert, in its place, the acronym "OPLP".

b. In paragraph (f)(4), remove the words "Division of Procurement Policy" and insert, in their place, the acronym "OPLP"; also, remove the acronym "DPP" wherever it appears in the paragraph and insert, in its place, the acronym "OPLP".

319.201-70 [Amended]

40. Section 319.201-70 is amended as follows:

a. In paragraph (a), add the words "(and each regional Office of Engineering Services)" between the words "Health Resources and Services Administration (HRSA)" and the comma following the words.

b. Also in paragraph (a), remove the sentence "In the regions, a SADBUS shall also be appointed for each Regional Operations for Facilities Engineering and Construction."

c. In paragraphs (d)(1), (2), (4), (5), (11), (13), (14), (16), (17), (19), (20), and (21), add the words "women-owned business," after the words "disadvantaged business," and before the words "and labor surplus area".

d. In paragraph (d)(1), change the semicolon at the end of the statement to a comma, and add the words "establish appropriate source lists for each category, and work closely with contracting and small purchasing offices to ensue offers are solicited from firms on the source lists;".

e. In paragraph (d)(2), change the semicolon at the end of the statement to a comma, and add the words "and counsel them with respect to business opportunities to enhance their potential participation in the Department's acquisition program;".

319.870 [Amended]

41. Section 319.870 is amended in paragraph (b)(1) by removing the words "an information copy to the SADBUS." and inserting, in their place, the words "information copies to the SADBUS and OSDBU."

PART 323—[REMOVED]

42. Part 323 is removed.

332.406 [Amended]

43. Section 332.406(c)(1) is amended by correcting the reference to Appendix A to read "Attachment I".

44. A new Part 333 is added to read as follows:

PART 333—PROTESTS, DISPUTES, AND APPEALS

Subpart 333.1—Protests

Sec.

333.101 Definitions.
333.102 General.
333.103 Protests to the agency.
333.104 Protests to GAO.
333.105 Protests to GSBCA.
333.106 Solicitation provision.

Authority: 5 U.S.C. 301; 40 U.S.C. 486(c).

Subpart 333.1—Protests

333.101 Definitions.

"Filed," as used in this subpart, means receipt in the contracting office, the immediate Office of the Secretary, the General Accounting Office (GAO), or the General Services Board of Contract Appeals (GSBCA), as the case may be.

333.102 General.

(a) Contracting officers shall consider all protests or objections regarding the award of a contract, whether submitted before or after award, provided the protests are filed in a timely manner and are submitted by interested parties. To be considered timely, protests based on alleged improprieties in any type of solicitation which are apparent before bid opening or the closing date for receipt of proposals shall be filed prior to bid opening or the closing date for receipt of proposals. In the case of negotiated acquisitions, alleged improprieties which do not exist in initial solicitations, but which are subsequently incorporated by amendment, must be protested not later than the next closing date for receipt of proposals following the incorporation. In other cases, protests shall be filed not later than ten (10) Federal Government working days after the basis for protest is known or should have been known, whichever is earlier. Provided a timely protest has been filed initially with the contracting officer, any subsequent protest to the Secretary or GAO filed within ten (10) Federal Government working days of notification of adverse action will be considered. Written confirmation of all oral protests shall be requested from protestants and must be timely filed.

(c) (1) The Office of Procurement and Logistics Policy (OPLP), OPAL, OASMB, OS, has been designated as the headquarters office to serve as the liaison for protests lodged with GAO. Within OPLP, the Departmental Protest Control Officer (DPCO) has been designated as the individual to be contacted by GAO.

(2) The Office of General Counsel—Business and Administrative Law Division (OGC-BAL) has been designated to serve as the liaison for protests lodged with the GSBCA.

(3) Each contracting activity shall designate a protest control officer to serve as an advisor to the contracting officer and to monitor protests from the time of initial notification until the protest has been resolved. The protest control officer should be a senior acquisition specialist in the headquarters acquisition staff office. In addition, contracting activities should designate similar officials within their principal components to the extent practicable and feasible. A copy of each appointment and termination of appointment of protest control officers shall be forwarded to the Director, OPLP.

333.103 Protests to the agency.

(a) The contracting officer is authorized to make the determination, using the criteria in FAR 33.103(a), to award a contract notwithstanding the protest after obtaining the concurrence of the contracting activity's protest control officer and OGC-BAL. If the protest has been lodged with the Secretary, is addressed to the Secretary, or requests referral to the Secretary, approval shall also be obtained from the Director, OPLP before making the award.

(b) The contracting officer shall require written confirmation of any oral protest. To be considered timely, the written confirmation must be filed in accordance with the applicable provisions in 333.102(a).

(1) In the following cases, written protests received by the contracting officer before award shall be forwarded, through acquisition channels, to the DPCO for processing. Files concerning these protests shall be submitted, in duplicate, by the most expeditious means, marked "IMMEDIATE ACTION—PROTEST BEFORE AWARD", and contain the documentation referenced in 333.104(a)(2).

(i) The protestant requests referral to the Secretary of Health and Human Services;

(ii) The protest is known to have been lodged with the Comptroller General or the Secretary, or is addressed to either; or

(iii) The contracting officer entertains some doubt as to the proper action regarding the protest or believes it to be in the best interest of the Government that the protest be considered by the Secretary or the Comptroller General.

Otherwise, submissions of protests to the DPCO may be dispensed with by the contracting officer if he/she is reasonably satisfied that the protest is groundless. In this instance, the contracting officer, with the concurrence of the contracting activity's protest control officer and OGC–BAL, may disallow the protest.

(2) Protests received after award shall be treated as indicated in 333.103(b)(1), above; however, if the files are to be submitted to the DPCO for action, they shall be marked "IMMEDIATE ACTION—PROTEST AFTER AWARD".

333.104 Protests to GAO.

(a) *General.* (1) A protestor shall be required to furnish a copy of its complete protest to the contracting officer no later than the first working day after the protest is filed with GAO. Immediately upon receiving a copy of the complete protest, the contracting officer shall telephonically notify the contractng activity's protest control officer, who, in turn, shall immediately notify the DPCO. The contracting officer shall provide the name of the protestor, the solicitation number, the date and time the protest was received from the protestor, and any other significant information.

(2) Protests lodged with GAO, whether before or after award, shall be processed by the DPCO. Protest files shall be prepared by the contracting office and distributed as follows: two copies to the DPCO, one copy to the contracting activity's protest control officer, and one copy to OGC–BAL. Files shall include the following documentation:

(i) The contracting officer's statement of facts and circumstances, including a discussion of the merits of the protest, and conclusions and recommendations, including documentary evidence on which they are based.

(ii) A copy of the IFB or RFP.

(iii) A copy of the abstract of bids or proposals.

(iv) A copy of the bid or proposal of the successful offeror to whom award has been made or is proposed to be made.

(v) A copy of the bid or proposal of the protestant, if any.

(vi) The current status of award. When award has been made, this shall include whether performance has commenced, shipment or delivery has been made, or a stop work order has been issued.

(vii) A copy of any mutual agreement to suspend work on a no-cost basis, when appropriate (see FAR 33.104(c)).

(viii) Copies of the notice of protest given offerors and other parties when the notice is appropriate (see FAR 33.104(a)(3)).

(ix) A copy of the technical evaluation report required by 315.608–76, when applicable, and a copy of each evaluator's rating for all proposals.

(x) A copy of the negotiation memorandum, when applicable (see 315.672).

(xi) The name and telephone number of the person in the contracting office who may be contacted for information relevant to the protest, and

(xii) Any document which is referred to in the contracting officer's statement of facts.

The files shall be assembled in an orderly manner and shall include an index of enclosures.

(3) The contracting officer is responsible for making the necessary notifications referenced in FAR 33.104(a)(3). Copies of the views of interested parties submitted in response to the notifications shall be immediately provided to the DPCO upon receipt by the contracting officer.

(4) The contracting officer shall furnish the protest file containing the documentation specified in 333.104(a)(2), except item (i), to the DPCO within twelve (12) work days from receipt of the protest. The contracting officer shall provide the documentation required by item (i) of 333.104(a)(2) to the DPCO within nineteen (19) work days from receipt of the protest. (The contracting activity's protest control officer may provide a written opinion and recommendation on the protest to the DPCO within nineteen (19) work days from receipt of the protest by the contracting officer.) The contracting officer shall clearly identify any documents or portions of documents he or she desires to withhold from the protester, and shall include justification for the withholding of each document or portion of a document in the contracting officer's statement of facts. Since the statute allows only a short time period in which to respond to protests lodged with GAO, the contracting officer shall handle each protest on a priority basis.

The DPCO shall prepare the report and submit it and the protest file to GAO in accordance with FAR 33.104(a)(4).

(5)(i) The DPCO shall take the necessary actions specified in FAR 33.104(a)(5)(i) after receiving all the documentation required by 333.104(a)(2) from the contracting officer.

(ii) Since the DPCO will furnish the report to GAO, the protestor, and other interested parties, comments on the report from the protester and other interested parties will be requested to be sent to the DPCO.

(6) The Office of Procurement and Logistics Policy (OPLP), OPAL, has been designated as the headquarters office, and the DPCO as the individual, that GAO should contact concerning all protests lodged with GAO.

(b) *Protests before award.* (1) The contracting officer is authorized to make the determination, using the criteria in FAR 33.104(b)(1), to award a contract notwithstanding the protest, but shall obtain the approval of the Director, OPLP, before making the award.

(2) The contracting office shall prepare the protest file in accordance with 333.104(a)(2), and forward it, in duplicate, to the DPCO (see 333.104(a)(4)). The file shall be marked "IMMEDIATE ACTION—PROTEST BEFORE AWARD."

(c) *Protests after award.* The contracting officer shall prepare the protest file in accordance with 333.104(a)(2), and forward it, in duplicate, to the DPCO (see 333.104(a)(4)). The file shall be marked "IMMEDIATE ACTION—PROTEST AFTER AWARD."

(d) *Findings and notice.* The contracting officer shall perform the actions required by FAR 33.104(d); however, notification to GAO shall be made by the DPCO.

(e) *Notice to GAO.* The Deputy Assistant Secretary for Procurement, Assistance, and Logistics shall be the official to comply with the requirements of FAR 33.104(f).

(f) *Express option.* When GAO invokes the express option, the contracting officer shall prepare the complete protest file as described in 333.104(a)(2), to include item (i), and deliver it (hand-carry, if necessary) to the DPCO no later than the close of business on the ninth work day after the express option is invoked. The contracting officer shall involve OGC–BAL as early as possible after receiving notification of the invocation of the express option, and shall include in the protest file the cognizant OGC–BAL attorney's written statement of concurrence with the contracting officer's statement and recommendations. The DPCO shall prepare the report and submit it and the protest file to GAO.

333.105 Protests to GSBCA.

(a)(1) The contracting officer shall give telephone notification to the DPCO, OGC–BAL, and the contracting activity's protest control officer immediately upon notification of the protest.

(2)(i) The contracting officer is responsible for complying with the requirement in FAR 33.105(a)(2)(i).

(ii) The cognizant OGC–BAL attorney is responsible for complying with the requirement stated in FAR 33.105(a)(2)(ii).

(b) As soon as possible but no later than six (6) work days after the filing of the protest, a copy of the protest file containing *all* documents (see FAR 33.105(b)(7)), and labeled on the cover "FOR USE BY DPCO ONLY", shall be in the hands of the DPCO for review. Simultaneously, two copies of the same protest file provided to the DPCO shall be provided to the cognizant OGC–BAL attorney. These two copies shall be labeled on the cover "FOR USE BY OGC–BAL."

(1) Rather than furnishing a decision, the contracting officer shall include a statement of facts and circumstances and a discussion of the merits of the protest, as well as conclusions and recommendations and documentary evidence on which they are based. These statements shall be reviewed by the cognizant OGC–BAL attorney before being finalized.

(7) The cognizant OGC–BAL attorney shall provide all parties with a list of documents furnished to SBCA for *in camera* review.

(10) The copies of the protest files to be provided to the DPCO and OGC–BAL shall also contain the documents or information specified in 333.104(a)(2)(vii) through (xii). The file shall be assembled in an orderly manner and include an index of enclosures.

(c) The cognizant OGC–BAL attorney is responsible for complying with the requirement stated in FAR 33.105(c).

(d)(1) If the protest requests a suspension of acquisition authority, the contracting officer must make this known to the DPCO, OGC–BAL, and the contracting activity's protest control officer at the time of the initial telephone notification of the filing of the protest to afford an opportunity for the DPCO, OGC–BAL, principal official responsible for acquisition (PORA), and contracting officer to take appropriate action.

(2) If it can be established that the conditions stated in FAR 33.105(d)(1)(i) and (ii) are present, the contracting officer shall prepare a D&F setting forth the circumstances. The D&F shall be concurred in by the cognizant OGC–BAL attorney before being executed by the PORA (not delegable).

(g) If an appeal is to be made by the Department regarding a final decision issued by the GSBCA, it shall be made by OGC–BAL.

333.106 Solicitation provision.

The provision at FAR 52.233–2, Service of Protest, shall be completed by entering the name and complete mailing address of the contracting officer.

342.7205–4 [Amended]

45. Section 342.7205–4(a)(5) is amended by removing the words "Division of Procurement Policy (DPP)," and inserting, in their place, the words "Office of Procurement and Logistics Policy (OPLP),". Also, remove the term "Director, DPP," and insert, in its place, the term "Director, OPLP".

352.223–70, 352.223–71, and 352.232–70 [Removed]

46. Sections 352.223–70, 352.223–71, and 352.232–70 are removed.

352.370 [Amended]

47. Section 352.370 is amended as follows:

a. In paragraph (b), remove the words "Division of Procurement Policy (DPP); Office of Procurement and Assistance Policy;" and insert, in their place, the words "Office of Procurement and Logistics Policy (OPLP);". Also, remove the acronym "(DPP)" whenever it appears in the paragraph and insert, in its place, the acronym "(OPLP)".

b. In each of the "General Provisions" following section 352.370, except the "General Provisions for a Formally Advertised Contract," change the dollar amount in the titles of FAR clause numbers 52.215–22 and 52.215–24 to read "(OVER $100,000)". In addition, change the date following the clause title to read "(APRIL 1985)" in each of the FAR clauses numbered 52.215–24.

c. The General Provisions for a Formally Advertised Contract" is amended by removing, in the title, the words "Formally Advertised" and inserting, in their place, the words "Sealed Bid". Item I, numbers 5, 6, and 7, are amended by removing the words, "Formal Advertising" and the year "1984" and inserting, in their place, the words "Sealed Bidding" and the year "1985", respectively. Numbers 6 and 7 of Item I are further amended by changing the dollar amount in the clause title to read "$100,000."

370.102 [Amended]

48. Section 370.102(b) is amended as follows:

a. In the third sentence, remove the words "Office of Facilities Engineering, OMS, OS, or the Office of Regional Operations for Facilities Engineering and Construction in" and insert, in their place, the words "Office of Engineering Services serving".

b. In the fourth sentence, remove the words "Office of Facilities Engineering or the Office of Regional Operations for Facilities Engineering and Construction" and insert, in their place, the words "Office of Engineering Services."

Attachment II [Amended]

49. Attachment II—HHSAR SUBJECT INDEX is amended as follows. Add the following new subjects and references in alphabetical order:

* * * * *

Advocates for Competition 306.5

* * * * *

Business Proposal Instructions ..... 315.406–5(b)(3)

* * * * *

Class Determinations and Findings 301.703

* * * * *

Closing Review (of Contracts) 304.870

* * * * *

Competition Advocates 306.5
Competition Requirements 306

* * * * *

Contract Format 315.406–1

* * * * *

Contracting Officer's Signature 304.101

* * * * *

Definitions 302.1
Determination and Findings 301.7

* * * * *

Exclusion of Sources 306.2

* * * * *

Full and Open Competition After Exclusion of Sources 306.2

* * * * *

Justification for Other than Full and Open Competition 306.303

* * * * *

Other than Full and Open Competition 306.3

* * * * *

Post Negotiation Contract Preparation and Award 315.671

* * * * *

Program Personnel Responsibilities:

* * * * *

Other than Full and Open Competition:
Approval of JOFOC 306.304
Circumstances Permitting 306.302
Preparing JOFOC 306.303

* * * * *

Review and Approval of JOFOC's 306.304

* * * * *

Technical Proposal Instructions ..... 315.406–5(b)(2)

* * * * *

Remove the following subjects and references:

* * * * *

Billing Instructions ..... [No reference]

* * * * *

Competition 315.105

* * * * *

Criteria to Justify Noncompetitive Acquisition 315.7103

* * * * *

Determinations and Findings to Justify Negotiation.....315.3
* * * * *
Health, Safety and.....323.70
Identical Bid Reports.....303.302
* * * * *
Justification for Noncompetitive Acquisition.....315.7105
* * * * *
Negotiation Authorities.....315.2
* * * * *
Noncompetitive Acquisitions.....315.71
* * * * *
Program Personnel Responsibilities:
* * * * *
Noncompetitive Acquisitions:
Preparing JNCA.....315.7105
Procedures.....315.7104
Review Board.....315.7107
* * * * *
Safety and Health.....323.7003(c)
* * * * *
Synopsizing, Time of.....305.2
* * * * *
Whole Project Buys.....315.7108
* * * * *

Revise the references to the listed subjects to read as follows:

* * * * *
Debriefing of Unsuccessful Offerors....315.1003
* * * * *
Evaluation of Proposals:
Cost or Price.....315.608-77
Technical.....315.608-75 and 76
* * * * *
Evaluators, Use of Outside.....315.608-71(f)
* * * * *
Letter of Credit, Recipients and Central Point Addressees.....Attachment I
* * * * *
Plan, Technical Evaluation.....315.608-70
* * * * *
Program Personnel Responsibilities:
* * * * *
Source Selection:
* * * * *
Handling and Disclosing Proposals.....315.608-72
Rating and Ranking Proposals.....315.608-75
Technical Evaluation Panel.....315.608-71, 74
Technical Evaluation Plan.....315.608-70
Technical Evaluation Report.....315.608-76
* * * * *
Protests Against Award.....333.1
* * * * *
Technical Evaluation Panel.....315.608-71
Technical Evaluation Plan.....315.608-70
Technical Evaluation Report.....315.608-76
* * * * *

Amend the subject listing "Determinations and Findings Formats," by removing the "s" on the word "Formats," and removing the word and reference "Negotiation———315.370."

[FR Doc. 85-12852 Filed 5-30-85; 8:45 am]
BILLING CODE 4150-04-M

Proposed Rules

Federal Register
Vol. 50, No. 105
Friday, May 31, 1985

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

9 CFR Part 75

[Docket No. 84-025]

Equine Infectious Anemia, Procedures for Denying and Withdrawing Approval of Laboratories

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Proposed rule.

SUMMARY: This document proposes to amend the regulations in 9 CFR Part 75 to establish procedures for denying and withdrawing approval of laboratories to conduct official tests for equine infectious anemia. This action appears to be necessary to provide a mechanism to help ensure that all approved laboratories actually are in the business of conducting official tests and that only laboratories meeting the requirements set forth for approved laboratories are included as approved laboratories.

DATE: Written comments must be received on or before July 1, 1985.

ADDRESS: Written comments concerning this proposed rule should be submitted to Thomas O. Gessel, Director, Regulatory Coordination Staff, APHIS, USDA, Room 728, Federal Building, 6505 Belcrest Road, Hyattsville, MD 20782. Written comments received may be inspected at Room 728 of the Federal Building between 8 a.m. and 4:30 p.m., Monday through Friday, except holidays.

FOR FURTHER INFORMATION CONTACT: Dr. C.A. Gipson, Special Diseases Staff, VS, APHIS, USDA, Room 826, Federal Building, 6505 Belcrest Road, Hyattsville, MD 20782, 301-436-8321.

SUPPLEMENTARY INFORMATION:

Background

The regulations in 9 CFR Part 75 (referred to below as the regulations), among other things, contain provisions concerning the interstate movement of horses, asses, ponies, mules, and zebras found to be affected with equine infectious anemia (referred to below as EIA), also known as swamp fever.

The regulations in § 75.4(b)(1) provide that the Agar gel immuno-diffusion test is the official test for determining whether horses, asses, ponies, mules, and zebras are affected with EIA. The official test for EIA is required to be conducted in a laboratory approved by the Deputy Administrator, Veterinary Services. Under the provisions of § 75.4(b)(1), a laboratory will be approved by the Deputy Administrator after determining that the laboratory:

(i) has adequately trained technical personnel assigned to conduct the test, (ii) uses USDA licensed antigen, (iii) follows standard test protocol, (iv) meets check test proficiency requirements, and (v) reports all test results to State and Federal animal health officials.

The regulations do not specify procedures for denying or withdrawing approval of laboratories to conduct official EIA tests. This document proposes to add the following provisions for denying or withdrawing approval of laboratories to conduct official EIA tests:

The Deputy Administrator may deny approval of any laboratory to conduct the official test upon a determination that the laboratory does not meet the criteria for approval under this part and at any time may withdraw approval of any laboratory to conduct the official test upon a determination that any of the requirements for approval under this part are not complied with. In the case of a denial, the operator of the laboratory will be informed of the reasons for the action and, upon request, shall be afforded an opportunity for a hearing with respect to the merits or validity of such action in accordance with rules of practice which shall be adopted for the proceeding. In the case of a withdrawal, before such action is taken, the operator of the laboratory will be informed of the reasons for the proposed action and, upon request, shall be afforded an opportunity for a hearing with respect to the merits or validity of such action in accordance with rules of practice which shall be adopted for the proceeding. However, such withdrawal shall become effective pending final determination in the proceeding when the Deputy Administrator determines that such action is necessary to protect the public health, interest, or safety. Such withdrawal shall be effective upon oral or written notification, whichever is earlier, to the operator of the laboratory. In the event of oral notification, written confirmation shall be given to the operator of the laboratory as promptly as circumstances allow. This withdrawal shall continue in effect pending the completion of the proceeding and any judicial review thereof, unless otherwise ordered by the Deputy Administrator. In addition to withdrawal of approval when the requirements for approval are not complied with, approval will be automatically withdrawn by the Deputy Administrator when the operator of any approved laboratory notifies the National Veterinary Services Laboratories in Ames, Iowa, in writing, that the laboratory no longer conducts the officials test.

These provisions appear to be necessary to provide a mechanism to help ensure that all approved laboratories actually are in the business of conducting official EIA tests and that only laboratories meeting the requirements set forth for approved laboratories are included as approved laboratories.

Executive Order 12291 and Regulatory Flexibility Act

This action has been reviewed in conformance with Executive Order 12291 and has been determined to be not a "major rule." The Department has determined that this action would not have an effect on the economy of $100 million or more; would not cause a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions; and would have no significant adverse effects on competition, employment, investment, productivity, innovation, or the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

It is not anticipated that a significant number of laboratories would be affected by the adoption of this proposal. In addition, conducting official EIA tests is not the primary business activity of any laboratory in the United States. Therefore, the Administrator of the Animal and Plant Health Inspection Service has determined that the adoption of the proposal would not have a significant economic impact on a substantial number of small entities.

List of Subjects in 9 CFR Part 75

Animal diseases, Horses, Quarantine, Transportation, Equine, Dourine, Equine Infectious Anemia, Contagious Equine Metritis.

PART 75—COMMUNICABLE DISEASES IN HORSES, ASSES, PONIES, MULES, AND ZEBRAS

Accordingly, it is proposed to amend the regulations in 9 CFR Part 75 as follows:

1. The authority citation for Part 75 would be revised to read as follows:

Authority: 21 U.S.C. 111–113, 115, 117, 120, 121, 123–126; 7 CFR 2.17, 2.51, and 371.2(d).

2. A new paragraph (d) would be added to § 75.4 to read as follows:

§ 75.4 Notice relating to existence of equine infectious anemia (swamp fever), official test and conditions of interstate movement of reactors.

* * * * *

(d) The Deputy Administrator may deny approval of any laboratory to conduct the official test upon a determination that the laboratory does not meet the criteria for approval under this part and at any time may withdraw approval of any laboratory to conduct the official test upon a determination that any of the requirements for approval under this part are not complied with. In the case of a denial, the operator of the laboratory will be informed of the reasons for the action and, upon request, shall be afforded an opportunity for a hearing with respect to the merits of validity of such action in accordance with rules of practice which shall be adopted for the proceeding. In the case of withdrawal, before such action is taken, the operator of the laboratory will be informed of the reasons for the proposed action and, upon request, shall be afforded and opportunity for a hearing with respect to the merits or validity of such action in accordance with rules of practice which shall be adopted for the proceeding. However, such withdrawal shall become effective pending final determination in the proceeding when the Deputy Administrator determines that such action is necessary to protect the public health, interest, or safety. Such withdrawal shall be effective upon oral or written notification, whichever is earlier, to the operator of the laboratory. In the event of oral notification, written confirmation shall be given to the operator of the laboratory as promptly as circumstances allow. This withdrawal shall continue in effect pending the completion of the proceeding and any judicial review thereof, unless otherwise ordered by the Deputy Administrator. In addition to withdrawal of approval when the requirements for approval are not complied with, approval will be automatically withdrawn by the Deputy Administrator when the operator of any approved laboratory notifies the National Veterinary Services Laboratories in Ames, Iowa, in writing, that the laboratory no longer conducts the official test.

Done at Washington, D.C., this 24th day of May 1985.

G. J. Fichtner,

Acting Deputy Administrator, Veterinary Services.

[FR Doc. 85–13084 Filed 5–30–85; 8:45 am]

BILLING CODE 3410–34–M

9 CFR Part 85

[Docket No. 85–055]

Pseudorabies; Interstate Dissemination Prevention Provisions

AGENCY: Animal and Plant Heath Inspection Service, USDA.

ACTION: Extension of comment period for proposed rule.

SUMMARY: This document extends the comment period for a proposed rule which proposed to amend the pseudorabies regulations. This action is needed to allow industry representatives and other interested persons adequate time in which to prepare comments.

DATE: Written comments must be received on or before July 1, 1985.

ADDRESS: Written comments should be submitted to Thomas O. Gessel, Director, Regulatory Coordination Staff, Animal and Plant Health Inspection Service, U.S. Department of Agriculture, Room 728, Federal Building, 6505 Belcrest Road, Hyattsville, MD 20782. Comments should state that they are in response to Docket Number 83–061. Written comments received may be inspected at Room 728 of the Federal Building, 8 a.m. to 4:30 p.m., Monday through Friday, except holidays.

FOR FURTHER INFORMATION CONTACT: Dr. L. W. Schnurrenberger, Special Diseases Staff, Veterinary Services, Animal and Plant Health Inspection Service, U.S. Department of Agriculture, Room 822, Federal Building, 6505 Belcrest Road, Hyattsville, MD 20782, 301–436–8487.

SUPPLEMENTARY INFORMATION: On April 16, 1985, the Department published in the **Federal Register** (50 FR 14931–14939) a document which proposed to amend the pseudorabies regulations (contained in 9 CFR Part 85). It was proposed to provide an alternative method by which a herd of swine can be removed from the "known infected herd" classification; to provide an alternative method by which a herd of swine can attain or regain status as a qualified pseudorabies negative herd; to provide an improved method by which the pseudorabies disease status of swine in pseudorabies controlled vaccinated herds can be monitored; to give shippers alternatives means by which swine not vaccinated for pseudorabies and not known to be infected with or exposed to pseudorabies can be moved interstate to approved livestock markets, quarantined feedlots, feedlots and quarantined herds; and to give shippers alternative means by which swine infected with or exposed to pseudorabies can be moved interstate for slaughter.

The proposed rule provided for receipt of comments on or before May 31, 1985. An industry representative has requested additional time to review the proposal and offer substantive comments. It has been determined that additional time is needed to allow industry representatives and other interested persons adequate time in which to prepare comments. Therefore, the comment period is extended for an additional 30 days. Accordingly, any additional written comments must be received on or before July 1, 1985.

Done at Washington, D.C., this 28th day of May 1985.

J. K. Atwell,

Deputy Administrator, Veterinary Services.

[FR Doc. 85–13085 Filed 5–30–85; 8:45 am]

BILLING CODE 3410–34–M

NUCLEAR REGULATORY COMMISSION

10 CFR Part 2

Adjudications; Special Procedures for Resolving Conflicts Concerning the Disclosure or Nondisclosure of Information

Correction

In FR Doc. 85–12337 beginning on page 21072 in the issue of Wednesday, May 22, 1985, make the following corrections:

1. On page 21072, second column, the heading should appear as it does above.

2. On page 21073, second column, first complete paragraph, line twenty-seven, "information" should read "informant".

3. On the same page, third column, second complete paragraph, line eleven, "dislcosed" should read "disclosed"; in line twenty, "nor" should read "not" and "identify" should read "identity"; and in line thirty-one, "identify" should read "identity".

4. On page 21074, second column, sixth line from the bottom, "acess" should read "access".

5. On page 21075, first column **List of Subjects in 10 CFR Part 2,** fifth line, "material" should read "materials", and in the seventh line, "special" should read "Special".

§ 2.795a [Corrected]

6. On page 21076, first column, fourth line, "Appeals" should read "Appeal".

7. On the same page, first column, paragraph (c), fifth line, "preceeding" should read "proceeding".

§ 2.795e [Corrected]

8. On the same page, third column, § 2.795e (d), sixth line, "to" should appear between "relating" and "the", and in the eleventh line, "certificaiton" should read "certification".

§ 2.795f [Corrected]

9. On page 21077, first column, § 2.795f (a), tenth line, "an" should read "any".

§ 2.795j [Corrected]

10. On the same page, third column, paragraph (b), eleventh line, "should" should appear between "part" and "continue".

BILLING CODE 1505-01-M

CONSUMER PRODUCT SAFETY COMMISSION

16 CFR Ch. II

All-Terrain Vehicles; Advance Notice of Proposed Rulemaking; Request for Comments and Data

AGENCY: Consumer Product Safety Commission.

ACTION: Advance notice of proposed rulemaking.

SUMMARY: Based on available data, the Commission has preliminarily determined that there may be an unreasonable risk of injury associated with the use of all-terrain vehicles (ATVs) which may be sufficiently severe to require regulatory action by the Commission.* The Commission is aware of at least 161 deaths associated with ATVs occurring between January 1982 and April 1985. Estimates on the number of hospital emergency room treated injuries associated with ATVs in 1984 was 66,956. This is almost two and one-half times the number of injuries in 1983 and more than seven times the number in 1982. An estimated 28,000 ATV related injuries were treated in hospital emergency rooms nationwide in the first four months of 1985. This is approximately 80 percent higher than the estimated injuries treated during the same time period in 1984. The Commission is primarily concerned about accidents which result from (1) loss of control of the vehicle; (2) the vehicle overturning, such as flipping over backward, tipping over forward, or rolling over sideways; and (3) the rider being thrown from the ATV after it hits bumps, ditches, and other terrain features.

While this advance notice of proposed rulemaking (ANPR) commences a rulemaking proceeding, the Commission also discusses alternative ways to address the risk of injury associated with ATVs, including development of a voluntary standard; a judicial action under section 12 of the Consumer Product Safety Act (CPSA), 15 U.S.C. 2061, or section 3(e)(2) of the Federal Hazardous Substances Act (FHSA), 15 U.S.C. 1262(e)(2)); an administrative action under section 15 of the CPSA, 15 U.S.C. 2064, or section 15 of the FHSA, 15 U.S.C. 1274; the dissemination of safety related information and a rule under section 27(e) of the CPSA, 15 U.S.C. 2076(e). The Commission invites public comment on these alternatives.

Finally, the Commission in this notice specifically invites any person to submit (1) an existing standard that addresses the risk of injury associated with ATVs as a proposed consumer product safety standard or (2) a statement of intention to develop a voluntary standard addressing the risk of injury associated with ATVs, along with a plan to do so.

DATE: Comments and submissions in response to this ANPR are due no later than July 30, 1985.

ADDRESS: Comments and submissions should be sent, preferably in five (5) copies, to the Office of the Secretary, Consumer Product Safety Commission, Washington, D.C. 20207; telephone (301) 492-6800.

FOR FURTHER INFORMATION CONTACT: Nick Marchica, Consumer Product Safety Commission, Washington, D.C. 20207; telephone (301) 492-6554.

SUPPLEMENTARY INFORMATION: Throughout the discussion below there are citations to documents in the record of this regulatory proceeding. The citations are numbers placed in brackets. The citations refer to the numbered documents listed at the end of this notice. There are documents not cited in this ANPR which are part of the record in this proceeding. These documents are also listed at the end of this notice. All unrestricted listed documents are available from the Office of the Secretary.

A. Background

The Consumer Product Safety Commission has preliminarily determined that there may be an unreasonable risk of injury associated with the use of all terrain vehicles. On April 3, 1985, the Commission voted to commence a rulemaking proceeding by issuing an ANPR. [1,2] At that time, the Commission also adopted a number of measures intended to assist it in obtaining further information on the hazards associated with ATVs. These measures, which will be undertaken by the Commission staff are:

1. Conduct surveys of ATV injuries, and consumer exposure to obtain detailed information on ATVs and prepare a hazard analysis.

2. Conduct engineering, human factors, and medical analysis of the hazards associated with ATVs and their use.

3. Monitor the development of any voluntary standards for ATVs, pending review of future data and industry activity.

4. Share information with user groups and state, local, and federal officials.

5. Monitor the ATV industry's education and training effort, reserving the right to assist or strengthen the industry effort. [1,3]

The Commission has also decided to hold five public hearings to obtain safety-related information on ATVs. The first hearing will be held in Jackson, Mississippi on May 30, 1985. The second hearing will be held in Dallas, Texas on June 17, 1985, and the third in Concord, New Hampshire on July 25, 1985. The Commission also plans to hold hearings in Milwaukee, Wisconsin, and Los Angeles, California, during the next several months.

The Commission requests members of the public to participate in these hearings. The Commission is particularly interested in participation from owners and users of ATVs; persons who have been involved in accidents or who have been injured while riding an ATV; state and local government officials or organizations involved with ATV safety and training, state legislation or local ordinances; persons or organizations involved in the testing and evaluation of ATVs; and manufacturers, distributors, importers and retailers of ATVs. These hearings will specifically focus on hazards associated with ATVs and ways the industry, the Commission, state and local government, or voluntary standards organizations can address these hazards.

* On May 20, 1985 the Commission voted to issue this advance notice of proposed rulemaking in the **Federal Register.** Commissioner Dawson dissented and will issue a statement that will be made available in the Office of the Secretary.

Since 1972, the total sales of ATVs have risen from 12,000 units per year to a projected 780,000 units for 1985. [4,5,6] The increased use of ATVs has been accompanied by a sharp rise in fatalities and injuries. The Commission is aware of at least 161 deaths associated with ATVs occurring between January 1982 and April 1985. (Reports for 1983, 1984, and 1985 are not yet complete.) [7,63] The national estimates of injuries each year associated with ATVs and treated in hospital emergency rooms grew from 8,585 in 1982 to 27,554 in 1983 to 66,956 in 1984. An estimated 28,000 ATV related injuries were treated in hospital emergency rooms between January 1, and April 30, 1985, an increase of approximately 80 percent over the injuries treated during the same time period in 1984. [8,9,63]

In the spring of 1984, because of the increase in accidents involving ATVs, the Commission began an investigation of ATV-related incidents. Staff members began examining the economic, epidemiologic, engineering, human factors and medical aspects of ATV safety. In addition, Commission staff investigated accidents reported to have involved ATVs. [10]

The staff held several meetings with the Specialty Vehicle Institute of America (SVIA), a trade association representing manufacturers and distributors of ATVs, and with individual manufacturers of ATVs. [12,31] On October 23, 1984, the Commission held a public meeting with the manufacturers of ATVs and the SVIA. [11] At this meeting the SVIA proposed a number of actions to reduce injuries through rider education and training. [13] In January 1985, the industry provided further details of the progress of its rider education and training program. [14] In December 1984 and March 1985, the Commission and the SVIA jointly issued safety alerts warning consumers of the potential risks associated with ATVs. [15]

The Commission believes that the following factors are associated with ATV injuries and deaths: user behavior, vehicle performance, conditions of use, and the interaction of these factors. The Commission is concerned about whether the performance characteristics of three and four wheel ATVs, including their dynamic stability and handling, are reasonably safe. The Commission's technical staff has not determined the feasibility, practicality, appropriateness, or cost of performance or other modifications, which would adequately reduce or eliminate the risk of injury associated with ATVs. However, based on available data, the Commission staff believes that the performance characteristics of ATVs, including their dynamic stability and handling, are a significant factor in ATV related accidents. [16,35a]

This ANPR commences a rulemaking proceeding. This ANPR is issued under the authority of section 9(a) of the Consumer Product Safety Act (CPSA), 15 U.S.C. 2058(a) and the authority of section 3(f) of the Federal Hazardous Substances Act (FHSA), 15 U.S.C. 1262(f). It appears from injury and other data in the Commission's possession that ATVs are used by children. [7,8,9,14,17,18,19,63] At the present time, however, the Commission does not have sufficient data to allow it to determine whether some or all ATVs are articles intended for use by children within the meaning of section 2(f)(D) of the FHSA, 15 U.S.C. 1261(f)(D), and therefore subject to regulation under the FHSA. The Commission expects to obtain information that will enable it to make this determination, in part through the comments it receives in response to this ANPR and in part from other work conducted by the staff. Since the procedural and substantive requirements for the issuance of an ANPR are identical under section 9(a) of the CPSA and section 3(f) of the FHSA, the Commission is issuing this ANPR under the authority of both statutes.

The scope of this ANPR extends to three and four wheeled ATVs. CPSC injury data collected to date primarily involve three-wheel ATVs. The Commission staff believes this is probably because the data reflect the current predominance of three-wheel ATVs in the market. Based upon a review of the death and injury data involving four-wheel ATVs, and upon an examination of the vehicles, the Commission is also concerned about the performance characteristics of four-wheel ATVs, including their dynamic stability and handling. [7,8,20,21,22,63]

B. The Product

An all-terrain vehicle is a motorized machine intended to be ridden by one person and designed for off-road use, for recreational and other purposes. The majority of ATVs currently in use have three wheels in a tricycle configuration, although there is an increasing number of four-wheel models available for sale to, and use by, consumers. [4,23]

ATVs typically have gasoline-powered engines of between 50 and 250 cubic centimeter displacement. ATVs use broad, soft, low pressure tires. Most have no rear axle differential and have limited suspension systems. There is some variability between ATV models in the types of controls such as types of throttles, brakes and clutches, and in their location. [6,20,21,22] The Commission is interested in obtaining information on whether standardization of controls, both with other ATVs and with motorcycles, may reduce the risk of injury.

The Commission staff estimates that by the end of 1985, approximately 2.5 million ATVs will be available for use, based on an average product life expectancy of seven to eight years and on a normally distributed rate of product survival. [4] As of 1985, four firms may account for 95% of all sales of ATVs in the United States. [4] The Commission staff has also identified an additional 24 firms which may manufacture ATVs or ATV kits, although these firms account for only a small portion of sales in the United States. [4]

Sale of ATVs have increased substantially since the mid-1970's. From 1980 to 1983, sales more than tripled. The average rate of growth over this period was 55% per year. While the number of sales increased sharply in 1984, the percentage rate of growth slowed somewhat, to 24%. Industry estimates put the 1985 rate of growth at 20%. [4]

C. Risk of Injury

1. *Injury Data*—The Commission estimates from its National Electronic Injury Surveillance System (NEISS) that the number of hospital emergency room treated injuries associated with ATVs in 1984 was 66,956. This is almost two and one-half times the number of injuries in the previous year and more than seven times the number in 1982. [8] For the first four months of 1985 (January 1 to April 30, 1985) the estimates of ATV related injuries treated in hospital emergency rooms is 28,400, which is approximately 80 percent higher than the estimated injuries treated during the same time period in 1984. [63]

The Commission has reports of 161 ATV-related fatalities which occurred between January 1982 and April 1985. [7,35,63] These death reports came from a number of sources, including death certificates, Medical Examiners and Coroners, and news clips. Reporting of death certificates by the states is not yet complete for 1983, 1984, and 1985. A staff review of the 161 reported deaths revealed that 73 of the victims were under 16 years of age and 39 of the victims were under 12 years of age.* [7,35,63]

*Preliminary review of the information on the 161 deaths indicates that at least 6 involve four-wheel ATVs.

The age distribution of ATV injuries has remained approximately the same from 1983 to 1984. Three-fourths (73.6%) of the victims of ATV-related injuries were between the ages of 5 and 24 years of age. Almost one-third of ATV injuries (32.0% in 1984) involved children under 15 years of age. [8]

ESTIMATED NUMBER OF HOSPITAL EMERGENCY ROOM TREATED INJURIES AND NUMBER OF DEATHS ASSOCIATED WITH ATVS [7,8]

Year	Estimated number of emergency room treated injuries	Number of deaths reported to CPSC
1982	8,585	16
1983	27,554	46
1984	66,956	63

The Commission's staff examined a total of 169 in-depth investigations reports, six of which involved four wheeled ATVs. [8,18] Forty-six of the investigated cases were fatalities. Based on this limited sample of in-depth investigations of injuries and deaths, the staff identified some of the factors which may contribute to these accidents. Overturning and loss of control were documented in the majority of reported ATV accidents and deaths, and were observed regardless of whether alcohol, riding double, or speeding were also observed. These incidents involved drivers of all ages. Also, although some victims were first time ATV users, many had previous experience riding ATVs, and experience riding motorcycles or minibikes. While drivers of all age groups have been injured or killed in ATV related accidents, a great many fatalities and injuries involve children. [8]

2. *Injury Rate*—The table below gives a comparison between the number of injuries and the number of ATVs in use during 1983 and 1984. [24,25]

Year	Estimated hospital emergency room treated injuries per 1,000 ATVs in use	Estimated hospital emergency room treated injuries hospitalized per 1,000 ATVs in use
1983	21.7-22.2	2.58-2.64
1984	36.2-37.0	4.88-4.99

NEISS estimated frequency of injury associated with ATVs, minibikes/trail bikes, and snowmobiles are compared in the table below. [25] These products are similar in that they are off-road vehicles used for recreational and other purposes.

RATES OF INJURIES ASSOCIATED WITH THREE TYPES OF RECREATION VEHICLES, 1984

	Estimated hospital emergency room treated injuries 1984 [8]	Percent of cases hospitalized 1984 [8]	Estimated number in use at the end of 1984 [4,36] million	Estimated hospital emergency room treated injuries per 1,000 vehicles in use	Estimated hospital emergency room treated injuries hospitalized per 1,000 vehicles in use
ATVs	66,956	13.5	1.81-1.85	36.2-37.0	4.88-4.99
Minibikes/trailbikes	33,635	5.1	1.5	22.4	1.14
Snowmobiles	8,076	10.4	1.0-1.5	5.4-8.1	.56-.84

The rate of injuries associated with ATVs were nearly double those for mini bikes and trail bikes and more than eight times those for snow-mobiles. The hospitalization rate for ATVs is more than twice that of mini bikes and trail bikes. Injuries associated with these other types of vehicles for off-road use have remained about the same from 1983 to 1984, while ATV injuries have increased. [8]

D. Engineering Information

The basic configuration of the ATV and its unique performance characteristics, including dynamic stability and handling, appear to play a major role in accidents involving ATVs. Many of the serious injuries and deaths reported in the in-depth investigations resulted from loss of control of the ATV which appeared to follow an abrupt change in equilibrium of the vehicle. A number of factors may contribute to the change in equilibrium, including suddenly encountering a hole, obstruction, or change in terrain, or even a sudden change in the direction of the vehicle such as swerving to avoid an obstacle. The subsequent loss of control often follows a pattern in which the machine overturns, or the rider is thrown from the ATV.

The Commission staff believes that in many and perhaps most, of these accidents other factors may obscure the pattern of the loss of control as the critical element in the incident. For instance, alcohol, riding with passengers, or operating the vehicle illegally on a public road may cloud the data in establishing any common characteristic of the ATV as a causative factor. Based on an examination of the incident reports and the machines themselves, the Commission staff is presently of the opinion that the performance characteristics of the ATVs comprise the single most prominent factor identifiable as a cause of loss of control. [16,20,21,22,35a]

The staff observes that the level of complexity in ATV designs appears to be changing in terms of the models being offered. The staff also observes that until very recently, almost all ATVs were three wheeled and few had mechanical suspension systems. The staff is now noting a rapid increase in the number of four-wheel models available, as well as fully suspended three wheelers. [23] A major part of the anticipated engineerng effort will be to evaluate the effects of such design elements as four-wheel configurations, independent suspensions, and long suspension travel on the response and handling characteristics of various machines.

E. Human Factors

The risk-taking behavior of the users, the appeal and challenge of riding over uncertain terrain, and the potential high speeds reached by ATVs are factors that contribute to the likelihood of an eventual accident.

Because of uneven and changing terrain, the ATV moves through vertical, rotational, and even horizontal motions to which the driver must respond. These driver responses involve shift in weight, manipulation of hand and foot controls, and steering. Accidents occur as a result of a wheel striking an object or encountering a sudden change in terrain which may not have been perceived by the driver in time to be avoided and which may cause the ATV to respond in a manner which exceeds the driver's ability to control. The speed of the ATV is a major factor which may contribute to the driver's failure to perceive and accurately respond to environmental conditions. Other perceptual factors which may be involved in ATV-related accidents are inadequate light and unfamiliar terrain. [27]

The Commission is also concerned about whether the age of the driver has any effect on the perceptual responses which may be involved in ATV accidents. The Commission has received a report from a contractor which provides a preliminary discussion of the developmental characteristics of children and teenagers as they relate to the ability to safely operate an ATV. [28] The major finding of the report is that age, by itself, is not sufficient to

predict a person's ability to operate an ATV safely. The Commission is continuing to investigate the possibility of developing criteria to establish recommendations relating to driver age. [27,34]

F. Regulatory and Non-regulatory Alternatives for Addressing the Risks of Injury.

At present, the Commission has not decided which, if any, regulatory option it may elect to address the risks of injury associated with ATVs. The following is a discussion of the statutory alternatives available to the Commission.

1. *Rulemaking.*

a. *Statutory remedies.* The Commission is authorized under section 7 of the CPSA, to promulgate a mandatory consumer product safety standard which sets forth certain performance requirements for a consumer product or which sets forth certain requirements that a product be marked or accompanied by clear and adequate warnings or instructions. 15 U.S.C. 2056. A performance, warning, or instruction standard is reasonably necessary to prevent or reduce an unreasonable risk of injury. In addition, if the Commission finds that no feasible consumer product standard under section 7 would adequately protect consumers from an unreasonable risk of injury associated with ATVs, the Commission may promulgate a rule under section 8 of the CPSA declaring some or all ATVs to be banned products. 15 U.S.C. 2057.

If it is determined that some or all ATVs are articles intended for use by children, under section 3(e) of the FHSA, 15 U.S.C. 1262(e), the Commission may promulgate a rule declaring all ATVs, or certain ATVs which do not meet specified requirements, to be hazardous substances because, during normal use or when subjected to reasonably foreseeable damages or abuse, they present a mechanical hazard as defined in section 2(s) of th FHSA, 15 U.S.C. 1261(s). An article intended for use by children which has been declared by rule to be a hazardous substance is banned under section 2(q)(1)(A) of the FHSA. 15 U.S.C. 1261(q)(1)(A).

b. *Procedure.* The requirements for promulgating a mandatory rule are set out in section 9 of the CPSA, 15 U.S.C. 2058, and section 3(f) of the HFSA, 15 U.S.C. 1262(f). An advance notice of proposed rulemaking is the first step of a regulatory proceeding that could lead to a safety rule for ATVs under both section 9 of the CPSA and section 3(f) of the HFSA. The second step is the issuance of a proposed rule followed by public comment. The third step is the issuance of a final rule. If the Commisson decides to proceed with a mandatory standard, its staff could develop a proposed rule. In the alternative, any interested person may, in response to this ANPR, submit an existing standard as a proposed mandatory safety standard. In either case, the Commission would proceed with a proposed and a final rule, under the second and third rulemaking steps.

However, the Commission may not find it necessary to reach the second and third steps. As required by the CPSA, and FHSA, and its own policies, the Commission will not issue a regulation unless the alternative approaches for addressing the risk of injury presented by ATVs are not adequate to reduce or eliminate the risk. If the Commission determines that an alternative approach would be effective, it will terminate this rulemaking proceeding if it finds that a voluntary standard developed in response to this ANPR would eliminate or adequately reduce the risk of injury associated with ATVs, and that it is likely that there will be substantial compliance with the voluntary standard.

2. *Voluntary Standards and Other Industry Actions.*

The Commission is unaware of any existing voluntary standard which would eliminate or adequately reduce the risk of injury identified in subsection C above.

The Specialty Vehicle Institute of America (SVIA) recently indicated a willingness to begin developing a voluntary standard. [26,30,32,33] On April 26, 1985, Commission staff met with members of the SVIA Voluntary Standards Committee. The SVIA has informed the Commission staff that it has initiated steps to develop a voluntary standard and will use the procedures of the American National Standards Institute (ANSI). [29] The Commission staff has informed SVIA that any voluntary standard on ATVs should include provisions for minimum age recommendations, training and ATV performance characteristics, such as dynamic stability. [29]

SVIA has also developed an ATV rider training course aimed at promoting safe and responsible use of ATVs. The ATV course was developed for new ATV riders. The course takes about 4½ to 6 hours to complete and covers protective gear, controls, pre-ride inspection, local laws, safe riding practices, strategies for riding on a variety of different terrains, starting and stopping the engine, principles of turning, climbing and descending hills, emergency maneuvers, and riding over obstacles. [14] The SVIA rider training program is only one part of the association's total ATV safety program. Some aspects of the program are still in the developmental stages.

3. *Public Notice and Repair, Replacement or Refund of Purchase Price.*

a. *Statutory remedy.* Under section 15 of the CPSA, if the Commission determines that ATVs contain a product defect which, because of the pattern of defect, the number of defective products distributed in commerce, the severity of the risk or otherwise, presents a substantial risk of injury to the public ("substantial product hazard"), the Commission may order manufacturers, distributors, or retailers to take appropriate action to adequately protect the public. 15 U.S.C. 2064. This action may include giving public notice of the defect, mailing notice to any person known to have received the product, and ordering repair, replacement or refund of the purchase price of the product at the manufacturer's, distributor's, or retailer's election.

An action under section 15 of the CPSA is an adjudicatory proceeding which is initiated by filing an administrative complaint. All proceedings under section 15 are governed by section 15(f) of the CPSA. 15 U.S.C. 2064(f); section 554 of the Administrative Procedure Act, 5 U.S.C. 554; and the Commission's rules of adjudicatory practice, 16 CFR 1025.1–1025.72.

Under section 15 of the FHSA, 15 U.S.C. 1274, if the Commission believes that some or all ATVs are articles intended for use by children that contain a defect which creates a substantial risk of injury to children, the Commission is authorized to initiate an administrative adjudication seeking essentially the same relief it could obtain under section 15 of the CPSA.

4. *Imminent Hazard Action.* Section 12 of the CPSA, 15 U.S.C. 2061, authorizes the Commission to file an action in a United States district court against an imminently hazardous consumer product, against any manufacturer, distributor or retailer of an imminently hazardous consumer product or against both. The court is empowered to grant such temporary or permanent relief as may be necessary to protect the public from the risk. This relief can include notice to purchasers of the product, public notice, or recall, repair or replacement of the product, or refund of the purchase price. A section 12 suit can be filed notwithstanding the existence of a consumer product safety rule or the pendency of any administrative or

judicial proceeding under any of the other provisions of the Act.

Section 3(e)(2) of the FHSA provides that if the Commission finds that a children's article presents an "imminent hazard to the public health" because of a mechanical hazard and publishes that finding in the **Federal Register**, either before or during a rulemaking proceeding under provisions of section 3(e) through (i), the article is deemed to be a banned hazardous substance and its introduction into interstate commerce is prohibited until the rulemaking proceeding is completed. 15 U.S.C. 1262(e)(2). Introduction of the product into interstate commerce may be enjoined under provisions of section 8 of the FHSA and the product is subject to seizure under provisions of section 6 as a banned hazardous substance. 15 U.S.C. 1265, 1267.

5. *Submission of Performance and Technical Data.* Under section 27(e) of the CPSA, the Commission may, by rule promulgated in accordance with 5 U.S.C. 553, require ATV manufacturers to provide to the Commission performance and technical data related to the performance and safety of ATVs. Under this section, the Commission also may require the manufacturer to provide such performance and technical data directly to prospective purchasers of ATVs and to consumers. 15 U.S.C 2076(e).

6. *Dissemination of safety information.* Under sections 2 and 5 of the CPSA, 15 U.S.C. 2051, 2054, the Commission may disseminate to the public information concerning the risks of injury associated with ATVs and the steps consumers can take to protect themselves from those risks.

One specific option available to the Commission is the dissemination of comparative safety information such as the results of tests designed to measure safety-related performance characteristics of various models of ATVs and/or their component parts. The purpose of such testing would be to provide a comparative basis for assessing the handling characteristics of various ATVs, as opposed to setting performance criteria. Dissemination of comparative safety information would enable consumers to make informed choices about specific types of ATVs.

Prior to disseminating information to the public, the Commission must comply with the procedures contained in section 6 of the CPSA, 15 U.S.C. 2055.

G. Solicitation of Public Input

This ANPR is the first stage in the Commission's consideration of what regulatory action, if any, to take with respect to ATVs. As discussed above, the Commission may decide to pursue alternatives other than rulemaking to address the risks associated with ATVs.

The Commission specifically invites members of the public to:

1. Comment on the causes of injury associated with ATVs, including physical characteristics of the ATVs, user behavior, terrain, and weather conditions.

2. Comment on the risk of injury associated with ATVs.

3. Comment on the alternatives for addressing the risk discussed in section F above, including mandatory standards, voluntary standards, the initiation of adjudicatory proceedings, and the dissemination of comparative safety information, and comment on any other possible alternatives for addressing the risk.

4. Submit an existing standard or portion of an existing standard that addresses the risk of injury associated with ATVs as a proposed consumer product safety standard.

5. Submit a statement of intention to develop a voluntary standard or modify an existing standard that addresses the risk of injury associated with ATVs, along with a plan to do so.

6. Provide information identifying any voluntary standard applicable to ATVs or adaptable to ATVs which could reduce or eliminate the risk of injury.

7. Provide information identifying any changes in general or specific design or performance characteristics of ATVs that would adequately reduce or eliminate the risk of injury and the costs of such changes.

8. Provide information which identifies the degree, if any, to which the general design of ATVs as well as specific design and operational features of individual ATV models influence the performance characteristics of ATVs and contribute to the risk of injury.

9. Provide information concerning the development of the three and four wheel ATV design, including information relating to design features which take into account the hazards of loss of control and overturning.

10. Provide information relating to techniques for evaluating and testing the performance of ATVs.

11. Provide information concerning the handling characteristics of ATVs and the ability of users at various ages and levels of experience to maintain control of ATVs under various conditions of terrain and speed.

12. Provide information on current activities to educate or train users of ATVs, including children, in the proper method of operation, and ways these efforts could be improved.

13. Provide information on any accidents involving ATVs, including information on deaths and on specific injuries sustained in ATV accidents and the nature, degree, duration, treatment, and outcome of such injuries, including physician and hospital records.

14. Provide information concerning any state or local licensing requirement for ATVs or ATV riders or concerning any state or local restriction or legislation involving ATVs.

15. Provide information on the sale, marketing, and distribution of ATVs, particularly for use by children.

Any plan submitted with a statement of intention to develop a voluntary standard, item 4 above, should include, to the extent possible, a description of how interested groups and persons will be notified that a voluntary standard is underway; a description of how the views of interested groups and people will be incorporated into the standard; a detailed discussion of how the standard will proceed; a realistic estimate of the length of time development of the standard will take; a detailed schedule for various stages of the development process; a list of the people expected to participate in the standard development, along with some description of their backgrounds and experience; and a description of any facilities or equipment that will be used during the project.

All comments and submissions should be sent to the Office of the Secretary, Consumer Product Safety Commission, Washington, D.C. 20207 no later than July 30, 1985.

List of Subjects in 16 CFR Chapter II

Consumer protection, All-terrain vehicles, Off-road vehicles, Motor vehicle safety.

Dated: May 22, 1985.

Sadye E. Dunn,

Secretary, Consumer Product Safety Commission.

List of Documents Cited in ANPR

1. Minutes of Commission Meeting and April 3, 1985, vote on ATVs.

2. April 3, 1985, Statements of Commissioners on ATV vote.

3. March 12, 1985, N. Marchica to Commission, Subject: Staff Briefing Package on ATVs

4. February 7, 1985, T. Karels, ECCS, to E. Haught, CACA, Subject: ATVs (Updated Economic Information)

5. May 1, 1984, T. Karels, ECCS, to E. Haught, CACA, Subject: ATVs (Updated Market Information on Off-Road ATVs).

6. January 23, 1984, T. Karels, ECCS, to E. Haught, CACA, Subject: ATVs (Market Information on ATVs.)

7. April 24, 1985, R. Newman, EPHA, to N. Marchica, OPM, Subject: ATV Deaths.

8. February 11, 1985, G. Rutherford/J. Kennedy, EPHA, to N. Marchica, OPM. Subject: Updated Injury Data on ATVs.

9. October 16, 1984, G. Rutherford/J. Kennedy, EPHA, to D. Schmeltzer, CA. Subject: Updated Injury and Fatality Data for ATVs.

10. July 9, 1984, N. Marchica, OPM, to Commission, Subject: Briefing Package on ATVs.

11. September 18, 1984, Federal Register Notice, Subject: October 23, 1984 Commission Meeting (49 FR 38327)

12. August 22, 1984 and September 11, 1984 Meeting Logs: SVIA and CPSC.

13. Transcript of October 23, 1984, Commission Meeting.

14. January 30, 1985, M. Stahl, SVIA letter to E. Haught, CACA, Subject: updating safety program.

15. December 1984 and March 1985 SVIA/CPSC Safety Alerts.

16. February 11, 1985, V. Brown/R. Deppa, ES, to E. Haught, CACA, Subject: Assessment of SVIA Proposed Rider Training Program for ATVs.

17. 1984 ATV Owners Manuals. (Will be available for viewing in Room 100).

18. 199 In depth investigation reports (IDIs), referenced in text.

19. All other ATV related IDIs.

20. May 3, 1984, R. Deppa, ES, to E. Haught, CACA, Subject: PSA Review of Information Relating to the Mechanical Characteristics of ATVs.

21. April 24, 1984, ARTECH REPORT by Claude Hollyfield, Subject: Review of Publications and Reports and Compilation of Data on ATVs.

22. April 1984, R. Deppa, ES.5972350, Subject: "Discussion of the Dynamic Characteristics of ATVs."

23. March 18, 1985, W. Hobby, ECCS, to Commission, Subject: Response to Commission Questions Concerning ATVs.

24. June 19, 1984, N. Marchica, OPM, to E. Haught, CACA Subject: ATVs (1983).

25. February 25, 1985, N. Marchica, OPM, to D. Thome, CACA Subject: ATVs (1984).

26. April 2, 1985, letter from M. Stahl, SVIA, to Chairman Scanlon, Subject: SVIA Voluntary Standard.

27. May 10, 1984, V. Brown, EPHF, to E. Haught, CACA, Subject: Preliminary Human Factors Assessment of ATV Related Accident.

28. March 15, 1985, Essex Corporation Report, Subject: Quick Response Human Factors Analyses for PSA: Developmental Characteristics and Use of ATVs.

29. April 26, 1985, Meeting Log of SVIA/CPSC meeting.

30. April 17, 1985, letter, from M. Stahl, SVIA, to Chairman Scanlon, Subject: SVIA Voluntary Standard.

31. October 18, 1984, E. Haught, CACA, to Commission, Subject: Background Information for Industry/CPSC Meeting on ATVs, October 23, 1984.

32. March 1, 1985, letter, D. Noble, CPSC to M. Stahl, SVIA, Subject: Industry efforts Regarding ATV Safety.

33. March 15, 1985, letter, M. Stahl, SVIA, to D. Noble, CPSC, Subject: Industry Efforts Regarding ATV Safety.

34. March 29, 1985, R. Deppa/V. Brown, ESHF, to Commission, Subject: ATV Weights and Ages by Weight of Children and Adults.

35. Information regarding 161 ATV related deaths.

35a. April 26, 1985, letter from N. Naismith, Office of Technology Assessment to T. Jacobs, Commerce, Consumer and Monetary Affairs Subcommittee, Committee on Government Operations, U.S. House of Representatives, Subject: ATVs.

36. February 21, 1985, T. Karels, ECCS, to N. Marchica, OPM, Subject: Snowmobiles and Off Highway Motorcycles in Use.

63. May 14, 1985, R. Newman, EPHA, to the Commission, Subject: Update of ATV Injuries and Deaths.

Documents in the Record

37. February 20, 1985, Briefing Package to Commission, Subject: Update of Actions on ATVs.

38. March 18, 1985, D. Kaplan, ESES, to Commission, Subject: Contacts with Outside Organizations on 3 Wheel ATVs and Other Powered 3 Wheel Vehicles.

39. March 14, 1985, R. Verhalen, EP, to Commission, Subject: Responses Related to February 26 Meeting on ATVs.

Restricted 40. April 3, 1985, Commission Minutes of Decision: ATVs; Compliance and OGC Options.

41. March 19, 1985, N. Marchica, OPM, to Commission, Subject: ATVs.

42. May 1, 1984, A. Esch, HS, to N. Marchica, OPM, Subject: ATVs.

43. March 25, 1985, Meeting Log, ES and NHTSA.

44. March 15, 1985, R. Frye, EP, to B. Wilansky, Subject: Injury Estimates for Off Road Vehicles.

45. August 2, 1984, G. Rutherford, EP, to E. Haught, CACA, Subject: Update of Injury and Fatality Data for ATV Recreational Vehicles.

46. May 15, 1984, G. Rutherford/J. Kennedy, EP, to N. Marchica, OPM, Subject: Updated Injury Data on ATVs.

47. March 20, 1984, H. Tzuker, EPHA, to N. Marchica, OPM, Subject: Futher Information on ATVs.

Copyrighted materials; Newsletter cannot be reproduced. 48. March 29, 1985, D. Kaplan, ESES, to Commission, Subject: American All Terrain Vehicle Association.

49. April 2, 1985, E. Haught, CACA, to Commission, Subject: Honda's Safety and Age Labeling Submission.

50. March 19, 1985, letter from E. Glynn, Honda, to E. Haught, CACA, Subject: Update of Recent Activities.

51. Meeting Log of March 26, 1985, Meeting Between CPSC Staff and Representatives of American Honda, Subject: Design and Development of the Honda ATC.

52. March 20, 1965, Memorandum to ATV Safety Task Force and Interested Parties, from S. Halbert, 4-H Youth Development, Subject: Future Program/Media Efforts.

53. 1985 Assembly Bill 105, State of Wisconsin, Subject: Regulations on Restrictions of ATVs.

54. 1984, Teong Eng Tang "Analysis of Three Wheeled All-Terrain Vehicles/Rider System Dynamics", Abstract of Dissertation Submitted to Graduate Faculty, Iowa State University.

55. February 7, 1985, K. Giles, OPA, to N. Marchica, OPM, Subject: Information and Training on ATVs.

56. March 27, 1985, V. Brown, ESHF, to the Commission, Subject: State Laws Containing Minimum Operator Age Requirements for All Terrain Vehicles.

57. March 27, 1985, W. Hobby, EC, to Commission, Subject: Injury Costs Associated With ATVs.

Restricted. 58. March 27, 1985, W. Hobby, EC, to Commission, Subject: ATVs and U.S./Japanese Trade.

59. March 29, 1985, E. Haught, CACA, to Commission, Subject: Television Commercial Concerning 3 Wheel ATVs.

Copyrighted materials may not be reproduced. 60. March 29, 1985, D. Kaplan, ES, to Commission, Subject: Documents on ATVs (Engineering and Other Studies, Articles).

61. Federal Register Notice regarding Jackson, Mississippi Public Hearings.

Restricted. 62. April 3, 1985, T. Karels, ECCS, to Commission, Subject: ATVs 1984 Registrations.

[FR Doc. 85-13107 Filed 5-30-85; 8:45 am]

BILLING CODE 6355-01-M

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

21 CFR Part 1308

Schedules of Controlled Substances; Proposed Removal of Nalmefene From Control

AGENCY: Drug Enforcement Administration, Justice.

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice proposes the removal of the substance, nalmefene, and salts thereof, from control under the Controlled Substances Act (21 U.S.C. 801 *et seq.*). Nalmefene is currently a Schedule II narcotic by virtue of its derivation from the Schedule II opioid thebaine. This action results from the Acting Administrator's findings, based largely upon the recommendation of the Acting Assistant Secretary for Health, that nalmefene does not have sufficient potential for abuse or abuse liability to justify its continued control in any schedule.

DATE: Comments and objections must be received on or before July 30, 1985.

ADDRESS: Comments and objections may be submitted in quintuplicate to the Acting Administrator, Drug Enforcement Administration, 1405 Eye Street, NW., Washington, D.C. 20537, Attention: DEA Federal Register Representative.

FOR FURTHER INFORMATION CONTACT: Howard McClain, Jr., Chief, Drug Control Section, Drug Enforcement

Administration, Washington, D.C. 20537, Telephone (202) 633–1366.

SUPPLEMENTARY INFORMATION:

List of Subjects in 21 CFR Part 1308

Administrative practice and procedure, Drug traffic control, Narcotics, Prescription drugs.

Nalmefene is a controlled substance in Schedule II of the Controlled Substances Act (CSA) (21 U.S.C. 812(c) Schedule II (a)(1); § 1308.12(b)(1), Title 21 of the Code of Federal Regulations (CFR)). Chemically, nalmefene is 17-(cyclopropylmethyl)-4,5-epoxy-6-methylenemorphinan-3,14-diol; nalmefene is a derivative of the narcotic antagonist naltrexone and the Schedule II opioid thebaine.

On December 12, 1984, Key Pharmaceuticals, Inc., Miami, Florida, pursuant to 21 U.S.C. 811, *et seq.*, petitioned the Drug Enforcement Administration to initiate proceedings for removing nalmefene entirely from the schedules of the CSA. In addition, Key Pharmaceuticals, Inc. submitted data in support of its request to decontrol nalmefene. The Drug Enforcement Administration reviewed this data and forwarded the decontrol petition and its own comments in that regard in a letter dated January 17, 1985 to the Department of Health and Human Services for a scientific and medical evaluation and recommendation as to the merits of the petition, in accordance with 21 U.S.C. 811(b). In a letter dated March 14, 1985, the Acting Assistant Secretary for Health, on behalf of the Secretary, provided the Acting Administrator with his evaluation, based upon the recommendation of the Food and Drug Administration which included the endorsement of their Drug Abuse Advisory Committee that convened on January 17, 1985, "that nalmefene be removed from the schedules of the CSA and placed in an excluded narcotic status."

Based upon the review of the Drug Enforcement Administration and upon the scientific and medical evaluation and recommendation of the Secretary of the Department of Health and Human Services, received pursuant to 21 U.S.C. 811(b), the Acting Administrator finds that there currently does not exist substantial evidence that nalmefene possesses sufficient potential for abuse to justify its continued control in any schedule of the CSA.

PART 1308—[AMENDED]

Therefore, under the authority vested in the Attorney General by section 201(a) of the CSA (21 U.S.C. 811(a)), and delegated to the Acting Administrator of the Drug Enforcement Administration by regulations of the Department of Justice (28 CFR Part 0.100), the Acting Administrator hereby proposes that 21 CFR 1308.12 be amended as follows:

1. The authority citation for 21 CFR Part 1308 continues to read as follows:

Authority: 21 U.S.C. 811(a).

2. Section 1308.12(b)(1) would be revised to read as follows:

§ 1308.12 Schedule II

* * * * *

(b) * * *

(1) Opium and opiate, and any salt, compound, derivative, or preparation of opium or opiate, excluding apomorphine, dextrorphan, nalbuphine, nalmefene, naloxone, and naltrexone, and their respective salts, but including the following:

(1) Raw opium	9600
(2) Opium extracts	9610
(3) Opium fluid	9620
(4) Powdered opium	9639
(5) Granulated opium	9640
(6) Tincture of opium	9630
(7) Codeine	9050
(8) Ethylmorphine	9190
(9) Etorphine hydrochloride	9059
(10) Hydrocodone	9193
(11) Hydromorphone	9150
(12) Metopon	9260
(13) Morphine	9300
(14) Oxycodone	9143
(15) Oxymorphone	9652
(16) Thebaine	9333

* * * * *

Interested persons are invited to submit their comments, objections or requests for a hearing in writing with regard to this proposal. Requests for a hearing should state with particularity the issues concerning which the person desires to be heard. All correspondence regarding this matter should be submitted in quintuplicate to the Acting Administrator, Drug Enforcement Administration, 1405 Eye Street, NW., Washington, D.C. 20537, Attention: DEA Federal Register Representative.

In the event that comments, objections or requests for a hearing raise one or more issues which the Acting Administrator finds warrant a hearing, the Acting Administrator shall order a public hearing by notice in the **Federal Register** summarizing the issues to be heard and setting the time for the hearings which will not be less than 30 days after the date of the notice.

If no objections presenting grounds for a hearing on this proposal are received within the time limitation or if interested parties waive or are deemed to have waived their opportunity for a hearing or to participate in a hearing, the Acting Administrator, after giving consideration to written comments and objections, will issue his final order pursuant to 21 CFR 1308.48 without a hearing.

Pursuant to 5 U.S.C. 605(b), the Acting Administrator certifies that removal of nalmefene from control under the Controlled Substances Act is a deregulation action which will have no adverse impact upon small businesses or other entities whose interests must be considered under the Regulatory Flexibility Act (Pub. L. 96–354). In addition, nalmefene has not been approved by the Food and Drug Administration for use in medical treatment or to have accepted safety for use as a drug or other substance under medical supervision in the United States.

In accordance with the provisions of 21 U.S.C. 811(a), this proposal to remove nalmefene from Schedule II is a formal rulemaking "on the record after opportunity for a hearing." Such proceedings are conducted pursuant to the provisions of 5 U.S.C. 556 and 557 and as such have been exempted from the consultation requirements of Executive Order 12291.

Dated: May 23, 1985.

John C. Lawn,

Acting Administrator, Drug Enforcement Administration.

[FR Doc. 85–13049 Filed 5–30–85; 8:45 am]

BILLING CODE 4410-09-M

VETERANS ADMINISTRATION

38 CFR Part 21

Veterans Education; Delegation of Authority

AGENCY: Veterans Administration.

ACTION: Proposed regulations.

SUMMARY: A discrepancy exists between two VA regulations as to who has authority to approve special restorative training of more than 12 months for children entitled to dependents' educational assistance. One of those regulations is amended to bring it into agreement with the other. The Director, Vocational Rehabilitation and Counseling Service is delegated the authority to make these decisions.

DATES: Comments must be received on or before July 1, 1985.

ADDRESSES: Send written comments to: Administrator of Veterans' Affairs (271A), Veterans Administration, 810 Vermont Avenue, NW, Washington, DC 20420. All written comments received will be available for public inspection

only in the Veterans Services Unit, room 132 of the above address between the hours of 8 a.m. to 4:30 p.m., Monday through Friday (except holidays) until July 15, 1985.

FOR FURTHER INFORMATION CONTACT: June C. Schaeffer, Assistant Director for Policy and Program Administration, Education Service, Department of Veterans Benefits, (202) 389–2092.

SUPPLEMENTARY INFORMATION: Amendments have been made to 38 CFR 21.4001 to show that the Director, Vocational Rehabilitation and Counseling Service has been delegated the authority for certain approvals concerning special restorative training.

This proposal affects only internal VA management. Therefore, it is not subject to E.O. 12291, entitled Federal Regulation.

The Administrator of Veterans' Affairs has certified that this amended regulation, if made final, will not have a significant economic impact on a substantial number of small entities as they are defined in the Regulatory Flexibility Act (RFA). Under 5 U.S.C. 605(b), this regulation, therefore, is exempt from the initial and final regulatory flexibility analyses requirements of sections 603 and 604.

This certification can be made because this amended regulation affects only internal VA management. The regulation will have no significant impact on small entities, i.e., small businesses, small private and nonprofit organizations, and small governmental jurisdictions.

The Catalog of Federal Domestic Assistance number for the program affected by this regulation is 64.117.

List of Subjects in 38 CFR Part 21

Civil rights, Claims, Education, Grant programs-education, Loan programs-education, Reporting and recordkeeping requirements, Schools, Veterans, Vocational education, Vocational rehabilitation.

By direction of the Administrator.

Approved: May 23, 1985.

Everett Alvarez, Jr.,

Deputy Administrotor.

PART 21—[AMENDED]

38 CFR Part 21, Vocational Rehabilitation and Education, is amended by revising § 21.4001(c)(3), and by adding paragraph (g) so that the revised and added material reads as follows:

§ 21.4001 Delegations of authority.

* * * * *

(c) * * *

(3) Approval of courses under § 21.4250(c)(2).

(38 U.S.C. 212(c))

* * * * *

(g) Authority is delegated to the Director, Vocational Rehabilitation and Counseling Service to exercise the functions required of the Administrator for approval of courses under § 21.4250(c)(1).

(38 U.S.C. 212(a))

[FR Doc. 85–13060 Filed 5–30–85; 8:45 am]

BILLING CODE 8320–01–M

POSTAL SERVICE

39 CFR Part 10

Proposed Express Mail International Service to Panama

AGENCY: Postal Service.

ACTION: Proposed rule.

SUMMARY: Pursuant to an agreement with the postal administration of Panama, the Postal Service intends to begin Express Mail International Service with this country at postage rates indicated in the tables below. The proposed service is scheduled to begin on August 4, 1985.

DATE: Comments must be received on or before July 1, 1985.

ADDRESS: Written comments should be directed to the General Manager, Rate Development Division, Office of Rates, Rates and Classification Department, U.S. Postal Service, Washington, D.C. 20260–5350. Copies of all written comments will be available for public inspection and photocopying between 9 a.m. and 4 p.m., Monday through Friday, in room 8620, 475 L'Enfant Plaza West, SW., Washington, D.C. 20260–5350.

FOR FURTHER INFORMATION CONTACT: Leon W. Perlinn [202] 245–4414.

SUPPLEMENTARY INFORMATION: The International Mail Manual is incorporated by reference in the Code of Federal Regulations, 39 CFR 10.1. Additions to the manual concerning the proposed new service, including the rate tables reproduced below, will be made in due course. Accordingly, although 39 U.S.C. 407 does not require advance notice and the opportunity for submission of comments on international service, and the provisions of the Administrative Procedure Act regarding proposed rulemaking [5 U.S.C. 553] do not apply [39 U.S.C. 310 [a]], the Postal Service invites interested persons to submit written data, views or arguments concerning the proposed Express Mail International Service to Panama at the rates indicated in the table below.

Lists of Subjects in 39 CFR Part 10

Postal Service, Foreign relations.

The authority citation for Part 10 continues to read as follows:

Authority: 5 U.S.C. 552(a), 39 U.S.C. 401, 404, 407, 408.

PANAMA—EXPRESS MAIL INTERNATIONAL SERVICE

Custom designed services [1] [2]		On demand service [2]	
Up to and including		Up to and including	
Pounds	Rate	Pounds	Rate
1	$31.00	1	$23.00
2	34.80	2	26.80
3	38.60	3	30.60
4	42.40	4	34.40
5	46.20	5	38.20
6	50.00	6	42.00
7	53.80	7	45.80
8	57.60	8	49.60
9	61.40	9	53.40
10	65.20	10	57.20
11	69.00	11	61.00
12	72.80	12	64.80
13	76.60	13	68.60
14	80.40	14	72.40
15	84.20	15	76.20
16	88.00	16	80.00
17	91.80	17	83.80
18	95.60	18	87.60
19	99.40	19	91.40
20	103.20	20	95.20
21	107.00	21	99.00
22	110.80	22	102.80
23	114.60	23	106.60
24	118.40	24	110.40
25	122.20	25	114.20
26	126.00	26	118.00
27	129.80	27	121.80
28	133.60	28	125.60
29	137.40	29	129.40
30	141.20	30	133.20
31	145.00	31	137.00
32	148.80	32	140.80
33	152.60	33	144.60
34	156.40	34	148.40
35	160.20	25	152.20
36	164.00	36	156.00
37	167.80	37	159.80
38	171.60	38	163.60
39	175.40	39	167.40
40	179.20	40	171.20
41	183.00	41	175.00
42	186.80	42	178.80
43	190.60	43	182.60
44	194.40	44	186.40

[1] Rates in this table are applicable to each piece of International Custom Designed Express Mail shipped under a Service Agreement providing for tender by the customer at a designated Post Office.

[2] Pickup is available under a service agreement for an added charge of $5.60 for each pickup stop, regardless of the number of pieces picked up. Domestic and International Express Mail picked up together under the same Service Agreement incurs only one pickup charge.

An appropriate amendment to 39 CFR 10.3 to reflect these changes will be published when the final rule is adopted.

Louis A Cox,

General Counsel.

[FR Doc. 85–13061 Filed 5–30–85; 8:45 am]

BILLING CODE 7710–12–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Care Financing Administration

Office of the Secretary

42 CFR Part 430

45 CFR Part 201

[BPO-41-P]

Medicaid Program; Adjustment of Federal Share for Uncashed or Cancelled (Voided) Checks

AGENCY: Health Care Financing Administration (HCFA), HHS.

ACTION: Proposed rule.

SUMMARY: These proposed regulations require a State agency to refund to the Federal government the Federal share of Medicaid checks issued by the State or its fiscal agent that remain uncashed 180 days after the date of issuance. In addition, we would require that the Federal share of cancelled (voided) Medicaid checks be refunded quarterly since there has been no expenditure by the State.

This proposal is intended to implement in part a 1981 General Accounting Office recommendation that procedures be established for States to credit the Federal government for its portion of uncashed Medicaid checks issued by the State or its fiscal agent.

DATES: To assure consideration, comments must be mailed by July 1, 1985.

ADDRESS: Address comments in writing to: Health Care Financing Administration, Department of Health and Human Services, Attention: BPO-041-P, P.O. Box 26676, Baltimore, Maryland 21207.

Please address a copy of any comments relating to information collection requirements to: Office of Management and Budget, Room 3208, New Executive Office Building, Washington, D.C. 20503, Attention: Desk Officer for HCFA.

If you prefer, you may deliver your comments to Room 309-G, Hubert H. Humphrey Building, 200 Independence Ave., SW., Washington, D.C., or to Room 132, East High Rise Building, 6325 Security Boulevard, Baltimore, Maryland.

In commenting, please refer to BPO-041-P.

Comments will be available for public inspection as they are received, beginning approximately three weeks after publication, in Room 309-G of the Department's offices at 200 Independence Ave., SW., Washington, D.C. 20201, on Monday through Friday of each week from 8:30 a.m. to 5:00 p.m. (202-245-7890).

FOR FURTHER INFORMATION CONTACT: David D. McNally, 301-597-1398.

SUPPLEMENTARY INFORMATION:

I. Background

The Federal government participates in the cost of providing medical care and services under an approved Medicaid State plan, as well as in the cost of administering the Medicaid program. Grants are made before each quarter for State-estimated expenditures under approved State plans. The amount of a quarterly grant is based upon State estimates of the total amount and the Federal share of expenditures to be made during the next quarter. In addition, the State agency also submits a quarterly statement of expenditures. This is an accounting statement of the disposition of Federal funds granted for past periods and provides the basis for the adjustments necessary when the State's estimate for any prior quarter was greater or less than the amount the State actually expended. The amount of the grant for the current quarter is then reduced or increased to reflect the adjustments to the estimates for prior quarters.

Generally, Medicaid expenditures are made through the issuance of checks by the State or its fiscal agent. However, some States issue warrants, in lieu of checks, to pay for the costs Medicaid services and administration of the program. (A warrant is an order by which the State agency or local agency, without the authority to issue checks, recognizes a claim. Presentation of a warrant by the payee to a State officer with authority to issue checks will result in release of funds due.) State expenditures for Medicaid services are made directly to the person or entity providing the medical services unless, in limited circumstances, payment for physicians' or dentists' services is made directly to the patient (see 42 CFR 447.25, Direct payments to certain recipients for physicians' or dentists' services). State expenditures for administration of the program are made to individuals and entities, including employees and contractors, who perform the numerous activities necessary in administering the Medicaid program.

II. Need for Amended Regulations

After a 12-month study of the Medicaid program's cash management practices, the United States General Accounting Office (GAO) reported in 1981 that in some cases, States held Federal Medicaid funds for unnecessarily long periods, enabling these States to earn interest on funds that the Federal government itself had borrowed. (The GAO study and its recommendations are included in the report entitled Improving Medicaid Cash Management Will Reduce Federal Interest Costs, HRD-81-94.) In its report, GAO recommended that the Medicaid program establish uniform requirements for States to credit the Federal government for its portion of uncashed Medicaid checks. We intend these proposed regulations to implement in part that GAO recommendation.

III. Proposed Changes

A. Uncashed Medicaid Checks

The proposed regulations require that the Federal share of checks outstanding for 180 days or more after the date of issuance (the date on the face of the check) must be refunded to the Federal government each quarter along with the Federal share of any interest earned. We believe that 180 days is a reasonable time period for an entity or an individual to cash a check. This time period is based on accepted banking practice that considers 180 days as a reasonable time period for checks to be cashed, and banks often will not accept checks that are presented after that timeframe.

In addition, this proposal is consistent with a provision of the Supplemental Security Income program (SSI) in section 1631 (1) of the Social Security Act (the Act) that applies a 180-day time period to outstanding SSI checks. Under that provision, for checks that have not been cashed for 180 days from date of issuance, the portion of Federal SSI checks that represents State supplementary payments made by the Federal government on behalf of the States, must be refunded to the States, although the SSI checks may still be negotiated. Similarly, in February 1983, the Social Security Administration proposed that the Federal portion of checks issued by States under the Aid to Dependent Children program and the Aid to the Aged, Blind and Disabled program, which have not been cashed for 180 days or more, must be refunded to the Federal government by the States each quarter (see 48 FR 7481; February 22, 1983).

We would not require States or their fiscal agents to cancel (void) Medicaid checks 180 days after the date of issuance. To do this could cause unwarranted administrative expense to States and their fiscal agents. However, we would require that States refund the

Federal share of these uncashed checks along with the Federal share of any interest earned. The State would refund the Federal share that it received for uncashed checks by adjusting the Quarterly Statement of Expenditures. If the State does not refund the appropriate amount, the amount would be recovered through the issuance of a disallowance letter to the State.

In the event that a check is honored for payment after the Federal share has been refunded to the Federal government, we would allow a State to claim Federal Matching for the expenditure as long as the claim for Federal matching funds is otherwise allowable under the Act and the Regulations issued prusuant to the Act.

B. Cancelled (Voided) Checks

A cancelled (voided) check is one issued by the Sate or its fiscal agent that is cancelled (voided) by the State or its fiscal agent, thus preventing disbursement of funds to the payee.

Under current procedures, a State, as an administrative convenience, claims Federal financial participation for payments issued in the form of checks that are not yet cashed. It seems reasonable that there be a credit to Federal funds as near as possible to the date when the State determines that there will be no State expenditure.

Therefore, we propose to include in our regulations a longstanding operational policy that the Federal share of any cancelled (voided) check must be refunded to the Federal government in the quarter in which the check is cancelled, unless previously refunded. The State would refund the Federal share that it received for cancelled (voided) checks along with the Federal share of any interest earned on that amount, by adjusting the Quarterly Statement of Expenditures. If the State does not refund the appropriate amount, the amount would be recovered throught the issuance of a disallowance letter to the State.

C. Duplication of Proposal for Titles I, IV–A, X, XIV, and XVI (AABD) of the Act

We intend these proposed rules to duplicate the February 22, 1983 proposal (48 FR 7479) issued by this Department for the public assistance programs under the Jurisdiction of the Social Security Administration.

(These programs are:

- Grants to States for Old-Age Assistance and Medical Assistance for the Aged (Title I of the Act).
- Grants to States for Aid and Services to needy Families with Children and for Child Welfare Services (Title IV–A).
- Grants to States for Aid to the Blind (Title X).
- Grants to States for Aid to the Permanently and Totally Disabled (Title XIV).
- Grants to States for Aid to the Aged, Blind, or Disabled, or for Such Aid and Medical Assistance for the Aged (Title XVI).)

D. Changes in the Regulations

Because these requirements would be part of the HHS grants to States process, we would amend 45 CFR 201.5(a)(3) by adding a cross reference to a new 45 CFR 201.67, where these rules would be included.

In addition, we would revise 42 CFR 430.0(b)(3) to aid in indicating that several other regulations located in 45 CFR Parts 204 also apply to the Medicaid program.

IV. Impact Analyses

Executive Order 12291 requires us to prepare and publish a regulatory impact analysis for any regulations that are likely to have an annual effect on the economy of $100 million or more, cause a major increase in costs or prices, or meet other threshold criteria that are specified in that order. In addition, the Regulatory Flexibility Act (Pub. L. 96–354) requires us to prepare and publish a regulatory flexibility analysis for regulations unless the Secretary certifies that the regulations will not have a significant economic impact on a substantial number of small entities. Under both the Executive Order and the Regulatory Flexiblity Act, such analyses must, when prepared, show that the agency issuing the regulations has examined alternatives that might minimize unnecessary burdens or otherswise ensure the regulations to be cost effective.

A. Executive Order 12291

These proposed regulations require State agencies to refund to the Federal government the Federal share of checks issued by the Medicaid program that remain uncashed 180 days after the date of issuance. In addition, we would require that the Federal share of cancelled (voided) Medicaid checks be refunded quarterly since, again, there has been no State expenditure. It is difficult to estimate precisely the amount of principal and interest funds that will be recouped through our current financial management reviews. This proposed rule would allow us to recoup the Federal share of uncashed and cancelled (voided) checks in a timely manner resulting in some Federal interest savings. Based on program experience, several audits and financial management reviews, we have to date identified $1.8 million in uncashed and cancelled (voided) checks in five States (Pennsylvania, New York, South Carolina, Indiana and Minnesota). In FY 1984, our regional offices are conducting special financial management reviews in at least one State within their respective regions. As part of each review, the regional office will determine the amount, if any, of the Federal share of uncashed Medicaid checks that remain outstanding 180 days after the date of issuance. In addition, the regional office will determine whether the State routinely returns the Federal share of cancelled (voided) checks in the quarter in which the checks are voided and, if not, the total amount of the outstanding Federal funds. We expect that the 10 regional office reviews in FY 1984 would at least double the amount detected in the 5 previous reviews and audits. Thus, we estimate that recoupments of uncashed and cancelled (voided) checks would be at least $3.6 million in FY 1984.

In FY 1985 we anticipate that regional office reviews in additional States will result in recoupments of about $5 million. Actual recoupments will depend on the volume of uncashed or cancelled (voided) checks in the States reviewed and the accounting practices used by these States to report these monies.

We also anticipate savings from not borrowing and paying interest on funds to cover the Federal share of checks that remain uncashed. Some State Medicaid checks issued to providers often remain uncashed for prolonged periods of time, in some cases as long as 7 years. This proposed rule will set an outside limit on the length of time we will permit the Federal share of uncashed of cancelled (voided) checks to remain outstanding. Exact interest savings would be a factor of the amount of identified recoupments and the current interest rate on borrowed funds. For example, assuming an interest rate of 10 percent for the recoupments noted earlier, Federal interest savings amounts would be $360,000 in FY 1984 and $500,000 in FY 1985. Interest savings amounts obviously would increases if recoupment amounts increased.

Finally, we do not anticipate any additional administrative cost because the financial management reviews were already planned and are not affected by this proposal. Also the change in the time limitation for recoupment of Federal funds will itself not result in additional administrative costs. Therefore, as as the total annual economic impact of this proposed rule

will not meet the threshold criteria of section 1(b) of the Executive Order, we do not consider this proposed rule a major rule as defined by the Order.

B. Regulatory Flexibility Act

The Secretary certifies under 5 U.S.C. 605 U.S.C. 605(b), as enacted by the Regulatory Flexibility Act (Pub. L. 96-354), that these proposed regulations will not have a significant economic impact on a substantial number of small entities. As defined by the Regulatory Flexibility Act, a "small entity" includes the term "small governmental jurisdiction", which means "governments of cities, counties, towns, townships, villages, school districts or special districts, with a population of less than fifty thousand." No State meets this definition, and as these regulations only affect States, a regulatory flexibility analysis is not required.

C. Paperwork Reduction Act

Sections 45 CFR 201.5, 201.67(c)(2), and 201.67(d)(2) of this proposed rule contain information collection requirements. As required by section 3504(h) of the Paperwork Reduction Act of 1980, we have submitted a copy of this proposed rule to the Office of Management and Budget (OMB) for its review of these information collection requirements.

States currently comply with this information collection by reporting the required data on the Quarterly Statement of Expenditures, form HCFA-64. This form is approved under OMB number 0938-0067.

V. Response to Comments

Because of the large number of comments we receive on proposed regulations, we cannot acknowledge or respond to them individually. However, in preparing the final rule, we will consider all comments submitted timely and respond to them in the preamble of that rule.

List of Subjects

42 CFR Part 430

Grant Programs—health, Medicaid.

45 CFR Part 201

Aid to families with dependent children, Grant programs-social programs, Guam, Public assistance programs, Puerto Rico, Virgin Islands.

Title 42—Public Health

Chapter IV—Health Care Financing Administration, Department of Health and Human Services

A. Title 42, Part 430, of the Code of Federal Regulations would be amended as set forth below:

PART 430—GRANTS TO STATES FOR MEDICAL ASSISTANCE PROGRAMS

1. The authority citation for Part 430 is revised to read as follows:

Authority: Sec. 1102, Social Security Act; 42 U.S.C. 1302.

2. Section 430.0(b)(3) is revised to read as follows:

Subpart A—Introduction; Definitions

§ 430.0 Introduction to Subchapter C.

* * * * *

(b) Federal Regulations.

* * * * *

(3) Regulations in 45 CFR Parts 201, 204, 205, and 213 also apply to the Medicaid program, to the extent specified.

Title 45—Public Welfare

Chapter II—Office of Family Assistance (Assistance Programs), Department of Health and Human Services

B. Title 45, Part 201 of the Code of Federal Regulations would be amended as set forth below:

PART 201—GRANTS TO STATES FOR PUBLIC ASSISTANCE PROGRAMS

1. The authority citation for Part 201 is revised to read as follows:

Authority: Sec. 1102, Social Security Act; 42 U.S.C. 1302.

2. The table of contents for Part 201 is amended by adding the heading for a new § 201.67 under Subpart B, to read as follows:

Sec.

* * * * *

Subpart B—Review and Audits

* * * * *

201.67 Treatment of uncashed or cancelled checks.

3. Section 201.5(a)(3) is revised to read as follows:

§ 201.5 Grants.

* * * * *

(a) Form and manner of submittal.

* * * * *

(3) The State agency must also submit a quarterly statement of expenditures for each of the public assistance programs under the Act. This is an accounting statement of the disposition of the Federal funds granted for past periods and provides the basis for making the adjustments necessary when the State's estimate for any prior quarter was greater or less than the amount the State actually expended in that quarter. The statement of expenditures also shows the share of the Federal Government in any recoupment, from whatever source, of expenditures claimed in any prior period, and also in expenditures not properly subject to Federal financial participation which are acknowledged by the State agency, inlcuding the share of the Federal Government for uncashed or cancelled (voided) checks as described in § 201.67 of this part, or which have been revealed in the course of an audit.

* * * * *

4. A new § 201.67 is added to read as follows:

§ 201.67 Treatment of uncashed or cancelled checks.

(a) *Purpose.* This section provides the rules to ensure that States refund the Federal portion of uncashed or cancelled (voided) checks under titles I, IV-A, X, XIV, XVI (AABD)(and XIX.

(b) *Definitions.* As used in this section—"Cancelled (voided) check" means a check issued by the State agency or local agency which prior to its being cashed is cancelled (voided) by State or local agency action, thus preventing disbursement of funds. For purposes of Title XIX, a "cancelled (voided) check" includes a Medicaid check issued by a State or fiscal agent which prior to its being cashed is cancelled (voided) by the State or fiscal agent, thus preventing disbursement of funds.

"Check" means a check or warrant that a State or local agency uses to make a payment.

"Fiscal agent" means, for purposes of Title XIX, an entity that processes or pays vendor claims for the Medicaid State agency.

"Uncashed check" means a check issued by the State agency or local agency which has not been cashed by the payee. For purposes of Title XIX, an "uncashed check" includes a Medicaid check issued by a State or fiscal agent which has not been cashed by the payee.

"Warrant" means, for purposes of Title XIX, an order by which the State agency or local agency without the authority to issue checks recognizes a claim. Presentation of a warrant by the payee to a State officer with authority to issue checks will result in release of funds due.

(c) *Refund of Federal financial participation (FFP) for uncashed checks.*—(1) *General provisions.* If a check remains uncashed beyond a period of 180 days from the date it was issued; i.e., the date of the check, it will no longer be regarded as an allowable program expenditure. If the State has claimed and received FFP for the amount of the uncashed check, it must refund the amount of FFP received along with any interest earned on that amount.

(2) *Report of refund.* At the end of each calendar quarter, the State must identify those checks which remain uncashed beyond a period of 180 days after issueance. The State agency must refund all FFP that it received for uncashed checks, along with the Federal share of any interest earned on that amount, by adjusting the Quarterly Statement of Expenditures for that quarter. Once refunded on the Quarterly Statement of Expenditures for a quarter, an uncashed check is not to be refunded on a subsequent Quarterly Statement of Expenditures. If an uncashed check is cashed after the refund is made, the State may file a claim. The claim will be considered to be an adjustment to the costs for the quarter in which the check was originally claimed. This claim will be paid if otherwise allowed by the Act and the regulations issued pursuant to the Act.

(3) If the State does not refund the appropriate amount as specified in paragraph (c)(2) of this section, the amount will be disallowed.

(d) *Refund of FFP for cancelled (voided) checks.*—(1) *General provision.* If the State has claimed and received FFP for the amount of a cancelled (voided) check, it must refund the amount of FFP received along with any interest earned on that amount.

(2) *Report of refund.* At the end of each calendar quarter, the State agency must identify those checks which were cancelled (voided). The State must refund all FFP that it received for cancelled (voided) checks, along with the Federal share of any interest earned on that amount, by adjusting the Quarterly Statement of Expenditures for that quarter. Once refunded on the Quarterly Statement of Expenditures for a quarter, a cancelled (voided) check is not to be refunded on a subsequent Quarterly Statement of Expenditures.

(3) If the State does not refund the appropriate amount as specified in paragraph (d)(2) of this section, the amount will be disallowed

(Catalog of Federal Domestic Assistance Program No. 13.714, Medical Assistance Program)

Dated: March 26, 1985.

Carolyne K. Davis,

Administrator, Health Care Financing Administration.

Approved: May 6, 1985.

Margaret M. Heckler,

Secretary.

[FR Doc. 85-13103 Filed 5-30-85; 8:45 am]

BILLING CODE 4120-01-M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

43 CFR Parts 3500, 3510, 3520, 3530, 3540, 3550, 3560, 3570 and 3580

Leasing of Solid Minerals Other Than Coal and Oil Shale; Extension of Comment Period

AGENCY: Bureau of Land Management, Interior.

ACTION: Proposed rule; extension of comment period.

SUMMARY: After publication of the proposed rulemaking that would revise the regulations covering leasing of solid minerals other than coal and oil shale in the **Federal Register** on April 12, 1985 (50 FR 14512), with a 60-day comment period, an industry representative requested a 45-day extension of the comment period to provide sufficient time for a thorough review of the changes made by the proposed rulemaking. In response to the request, a 45-day extension of the comment period is hereby granted.

DATE: Comments should be submitted by July 26, 1985. Comments received or postmarked after the above date may not be considered in the decisionmaking process on issuance of a final rulemaking.

ADDRESS: Comments should be sent to: Director (140), Bureau of Land Management, Main Interior, Room 5555, 1800 C Street NW., Washington, D.C. 20240.

Comments will be available for public review in Room 5555 of the above address during regular business hours (7:45 a.m. to 4:15 p.m.), Monday through Friday.

FOR FURTHER INFORMATION CONTACT:

Marcia Rohn, (202) 343-2893

or

Zareh Mozian (202) 343-2456.

Dated: May 24, 1985.

Leona A. Power,

Acting Assistant Secretary of the Interior.

[FR Doc. 85-13011 Filed 5-30-85; 8:45 am]

BILLING CODE 4310-84-M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[MM Docket No. 85-125; FCC 85-218]

Review of Technical and Operational Regulations (AM Broadcast Stations)

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: This action proposes deletions and revisions of certain technical rules pertaining to AM broadcast stations. The intent is to investigate noncontroversial rules which the Commission believes have either outlived their usefulness, or which impede the ability of the market to regulate the AM broadcast industry. The Notice proposes amendments of rules which regulate: AM stereo transmission systems, antenna resistance measurements, safety and installation requirements for AM transmitters, measurement devices, and power measurement procedures.

DATES: Comments are due by July 1, 1985; Replies by August 1, 1985.

ADDRESS: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Michael A. Lewis, Mass Media Bureau, (202) 632-9660.

SUPPLEMENTARY INFORMATION:

List of Subjects in 47 CFR Part 73

Radio broadcast.

The collection of information requirement contained in this proposed rule has been submitted to OMB for review under section 3504(h) of the Paperwork Reduction Act. Persons wishing to comment on this collection of information requirement should direct their comments to the Office of Information and Regulatory Affairs, Office of Management and Budget, Washington, D.C. 20503, Attention: Desk Officer For Federal Communications Commission.

Notice of Proposed Rulemaking

In the matter of review of technical and operational regulations of Part 73, Subpart A, AM Broadcast Stations, MM Docket 85-125; FCC 85-218.

Adopted: April 25, 1985.

Released: May 7, 1985.

By the Commission.

Introduction

1. The Commission is initiating this Notice of Proposed Rule Making (Notice) to review the technical and operational requirements of Part 73, Subpart A for AM broadcasting stations. The rules under consideration are some of the

Commission's oldest regulations and were originally adopted because of the emerging nature of the AM service. The intent of this proceeding is to delete technical regulations which are no longer needed and to modify others, as appropriate, without undermining international agreements or increasing the potential for domestic interference.

Background

2. This is another in a series of proceedings intended to review fully the technical and operational requirements of all broadcast services (AM, commercial and educational FM, and TV). This Notice is limited, however, to technical "quality of service" requirements and does not consider allocation procedures. Rules which we believe to be of a highly complex or controversial nature also are not included in this proceeding.[1]

3. For the reader's convenience, the current text of all rules considered in this proceeding as well as the proposed modifications are included in the attached appendix. The following discussions will rely heavily upon the information contained in our present rules, but with minimal discussion of the current language of the rules.

Issues

4. Under consideration in this Notice are:

(1) AM stereophonic transmission standards;

(2) Antenna resistance measurement reports;

(3) Safety and installation requirements for transmitters;

(4) Instrumentation regulations; and

(5) Rule sections providing only engineering guidance.

Each issue will be developed separately.

Issue 1: AM Stereophonic Transmission Standards

5. Section 73.40, AM Transmission System Performance, was extensively revised in General Docket 83-114, by deleting the program signal quality standards for AM monophonic transmission systems.[2] However, the section continues to mandate AM stereophonic transmission performance standards, as the *Notice of Proposed Rule Making* in that proceeding did not propose to delete the stereophonic rules. For consistency within the Commissions's Rules, we now propose to remove the stereophonic "quality of service" transmission standards.

6. Other rule sections must be revised concurrently with § 73.40, including, § 73.128, AM Stereophonic Broadcasting. The requirement that transmitters meet the spurious response provisions of § 73.44 would be retained for interference control. However, requirements addressing program signal quality, such as harmonic distortion limits, are proposed for deletion. Section 73.1590, Equipment Performance Measurements, would be amended for consistency with deletions and revisions discussed above. We do, however, propose to retain the requirement to measure suppression of spurious emissions.

Issue 2. Antenna Resistance Measurement Reports

7. Currently, a permittee must submit a detailed report on the procedures employed to obtain the antenna resistance value when filing an application for license. The Commission also requires this information to be filed when there is a major change in the antenna system. We now believe that having the value of the resistance and reactance at the operating frequency is sufficient for our assignment process and propose to delete the requirement to file the additional measurement data.[3] However, the provisions which require licensees to keep this information available at the station would be retained as such information would be useful in accurately establishing operating power if this proved necessary. The antenna measurement filing requirements of § 73.186(b), Establishment of Effective Field at One Mile, also would be removed for consistency.

8. As indicated above, existing stations making repairs or modifications of their antennas must remeasure the antenna resistance. If the remeasured value differs from that shown on the station license, FCC Form 302 requesting a license modification must be filed. If the value does not change, an informal notice must be filed with the measurement data. We propose to delete the informal notification requirements entirely and require the formal application only when the remeasured value differs by 2% or more from the license value. We recognize that antenna resistance will naturally have small variations with weather and seasonal changes. The proposed 2% tolerance value should have insignificant effects on interference levels and is comparable to tolerances specified for other measurements. However, we do seek comment on whether this tolerance value is appropriate.

9. Related to this discussion is the provision of § 73.54(a) which requires that the antenna resistance be measured at the base of the antenna tower without any intervening networks or components. The antenna current meter or power meter must be located at this point which, in many cases, may be up to several hundred feet from the transmitter building. Stations using directional antennas, however, measure their antenna resistances and powers at another location in the transmitting system, called the "common point." This point is at the input to the network that divides the power to each of the antenna elements in the directional array, and frequently is at or near the transmitter output terminal.

10. We propose to amend § 73.54 to permit licensees of AM stations using nondirectional antennas to determine their operating powers at the output terminals of their transmitters. This would be of particular benefit to stations that use both directional and nondirectional operating modes by permitting the use of a common antenna ammeter for both modes. We seek comments on whether the use of an RF ammeter or direct reading power meter located near the transmitter output terminal can provide stable indications of the antenna power, either in lieu of the meter at the base of the tower, or as a calibrated secondary indication of the base meter. Further, would an efficiency factor be necessary to compensate for transmission line and matching network losses?

Issue 3: Transmission System Safety and Installation Requirements

11. Section 73.49, AM Transmission System Safety and Installation Requirements, lists several safety requirements for AM tranmission systems. The original purpose of these requirements was to protect station employees from electrical shock when operating equipment. The Commission now questions whether it should continue its involvement in workplace safety regulations. That function may more appropriately be performed by the Department of Labor's Occupational Safety and Health Administration

[1] The Commission has initiated separate rule makings regarding AM directional antenna sampling systems and proof of performance measurements (MM Docket 85-90 adopted Mar. 28, 1985), automatic transmitter systems (MM Docket 85-91 adopted Mar. 28, 1985), allocation criteria (MM Docket 85-39 adopted Feb. 13, 1985), and implementation of Region 2 agreements (MM Docket 84-752 adopted Mar. 28, 1985).

[2] *See* 49 FR 48305 (1984).

[3] The Commission now allows the use of direct reading power meters (MM Docket 84-751, 49 FR 49848 on 12/24/84). With such equipment, the need for the actual antenna resistance at the carrier frequency becomes less important for the measurement of power. Thus, we question the need for submission of this value when stations use automatic power measurement devices.

(OSHA) or by local agencies.[4] We therefore propose to delete the requirements of § 73.49 which detail design specifications for high voltage equipment and defer workplace safety standards to agencies responsible for employee safety.

12. We view this as an area that is logically left to, and indeed, more properly under the supervision of another Agency. Precedent exists in other cases involving matters more appropriately regulated by another Agency. For instance, many TV stations have elevators in their antenna towers to assist in maintenance, yet the Commission's Rules do not cover safety standards for these elevators. Elevator safety rules are administered by other regulatory Agencies.

13. In one safety area, we feel it is appropriate for the Commission to retain some regulations, as protection of the general public is involved. Section 73.49(a)(8) now requires fences around the base of each antenna tower to protect employees and the general public from a potential shock or burn hazard. We propose to retain this rule but also to relax it for directional stations by no longer requiring individual fences around each tower of the directional array, so long as the towers are within the perimeter fence of the station. This modification would retain the paragraph's original purpose while allowing considerably more flexibility in the method of implementation.

Issue 4: Instrumentation Regulations

14. Section 73.53 details requirements for AM directional antenna monitors. (The purpose of an antenna monitor is to measure the operating parameters of the antenna system.) We are proposing to delete paragraphs (c)(10) and (c)(12) which are advisory in nature and refer only to extra features that may be included in monitors.

15. Section 73.1215 establishes specifications for measuring instruments. Although a thorough revision of this section will be considered later, paragraph (e), which details the requirements for digital meters, appears to be overly restrictive and needs immediate attention. The rule requires installation of spare analog meters, or provisions for immediate installation of spare digital meters. When adopted, this requirement reflected the uncertain accuracy of the newly developed digital equipment. Such uncertainty no longer exists and we propose to delete this antiquated requirement.

Issue 5: Miscellaneous Issues

16. Several sections in Subpart A provide information on AM engineering matters. Most of these sections were originally meant to provide potential licensees with guidance in making engineering judgements. We believe that these sections could be removed from the Rules with no harmful effects. For instance, § 73.181 contains several paragraphs stating that the technical standards are not all inclusive and may change as more data is accumulated. We believe this disclaimer to be self-evident and, thus, propose deletion of paragraphs (a)–(e) of this section. We propose to move § 73.181(f)(1) to § 73.150 and § 73.181(f)(2) to § 73.182 as shown in the attached Appendix. Thus, § 73.181 would be removed from the Rules.

17. Section 73.188, Location of Transmitters, lists several factors that applicants should bear in mind when choosing transmitter sites. These suggestions, dating from the 1930's, are well known to engineers who design broadcast stations and are available from a number of publications on broadcast engineering. It is proposed to delete this section from the Rules. However, provisions relating to minimum field strength over the principal community and to blanketing interference would be retained and relocated in § 73.189. Additionally, paragraphs (b)(4) and (b)(6) of § 73.189, Minimum Antenna Heights Or Field Strength Measurements, are advisory only and are proposed for deletion. Furthermore, the requirement in paragraph (b)(7) that an "engineer" make certain measurements would also be revised to read "any qualified persons."

18. We wish to encourage all interested parties not only to comment on the specific proposed amendments detailed above, but also to submit other suggested deletions of rules that impede the efficient use of available, or future, broadcast technology.

19. Regulatory Flexibility Act Initial Analysis

I. *Reason for action.* Many of the Commission's Rules for the AM broadcast service were written to foster the growth of a developing service. Now that this service has reached maturity, it is appropriate to review these rules and decide whether they now impede the development of a competitive, marketplace environment.

II. *Purpose of rules.* The purpose of this action is to allow the AM broadcast service to operate in a vigorous, market-place environment and to delete unnecessary rules and policies.

III. *Legal basis.* Sections 4(i), 303, and 403 of the Communications Act of 1934, as amended.

IV. *Description, potential impact, and number of small entities affected.* There are approximately 4900 AM stations in the United States. We expect no negative impact for these stations, as we are not mandating any new requirements or requiring any new showings. Interference should not increase as a result of this action.

V. *Recording, record keeping, and other compliance requirements.* No new requirements are proposed.

VI. *Federal rules which overlap, duplicate, or conflict with this rule.* None.

VII. *Significant alternatives not adopted.* None.

Paperwork Reduction Act

20. The proposal contained herein has been analyzed with respect to the Paperwork Reduction Act of 1980 and found to impose new or modified requirements upon the public. Implementation of any new or modified requirement or burden will be subject to approval by the Office of Management and Budget as prescribed by the Act.

Ordering Clauses

21. The Secretary shall cause a copy of this Notice of Proposed Rule Making, including the Initial Regulatory Flexibility Analysis, to be sent to the Chief Counsel for Advocacy of the Small Business Administration in accordance with paragraph 603(a) of the Regulatory Flexibility Act (Pub. L. No. 96–354, Stat. 1164, 50 U.S.C. *et seq.*).

22. Pursuant to applicable procedures set forth in §§ 1.415 and 1.419 of the Commission's Rules, interested parties may file comments on or before July 1, 1985, and reply comments on or before August 1, 1985. All relevant and timely comments will be considered by the Commission before final action is taken on this proceeding. To file formally in this proceeding, participants must file an original and five copies of all comments, reply comments, and supporting comments. If participants want each Commissioner to receive a personal copy of their comments, an original plus nine copies must be filed. Comments and reply comments should be sent to Office of the Secretary, Federal Communications Commission, Washington, D.C. 20554. Comments and reply comments will be available for public inspection during regular business hours in the Dockets Reference Room (Room 239) of the Federal

[4] OSHA's safety standards for high voltage equipment are detailed in Title 29, Part 1910 of the Code of Federal Regulations.

Communications Commission, 1919 M Street, NW., Washington, D.C. 20554.

23. For purposes of this non-restricted notice and comment rule making proceeding, members of the public are advised that *ex parte* contacts are permitted from the time the Commission adopts a notice of proposed rule making until the time a public notice is issued stating that a substantive disposition of the matter is to be considered at a forthcoming meeting. In general, an *ex parte* presentation is any written or oral communication (other than formal written comments/pleadings and formal oral arguments) between a person outside the Commission and a Commissioner or a member of the Commission's staff which addresses the merits of the proceeding. Any person who submits a written *ex parte* presentation must serve a copy of that presentation on the Commission's Secretary for inclusion in the public file. Any person who makes an oral presentation addressing matters not fully covered in any previously-filed written comments for the proceeding must prepare a written summary of that presentation; on the day of oral presentation, that written summary must be served on the Commission's Secretary for inclusion in the public file, with a copy to the Commission official receiving the oral presentation. Each *ex parte* presentation described above must state on its face that the Secretary has been served, and must also state by docket number the proceeding to which it relates. See generally, § 1.1231 of the Commission's Rules, 47 CFR 1.231.

24. Accordingly, it is proposed, pursuant to the authority contained in sections 4(i) and 303 of the Communications Act of 1934, as amended, that Part 73 of the Commission's Rules be amended as set forth in the attached Appendix A.

25. Further information on this proceeding may be obtained by contacting Michael A. Lewis, Mass Media Bureau, at (202) 632-9660.

Federal Communications Commission.

William J. Tricarico,

Secretary.

Authority: Secs. 4, 303, 48 stat., as amended, 1066, 1082; 47 U.S.C. 154, 303.

Appendix

PART 73—[AMENDED]

It is proposed to amend Chapter I, Title 47, Part 73 of the Code of Federal Regulations as follows:

The Authority citation for Part 73 continues to read:

Authority: Secs. 4, 303, 48 Stat., as amended, 1066, 1082; 47 U.S.C. 154, 303.

§ 73.40 [Amended]

1. 47 CFR 73.40, *AM transmission system performance requirements,* would be amended by removing paragraphs (b) through (b)(7).

The affected text of 47 CFR 73.40 currently reads as follows:

§ 73.40 AM transmission system performance requirements.

* * * * *

(b) The design, installation, and operation of a stereophonic AM broadcast transmission system between audio imput amplifiers used for all programming for both the left and right program channels to the transmitting antenna terminals must meet the following specifications.

(1) Except when due to equipment failures or other conditions beyond the licensee's control, the transmitter must be capable of operating at the authorized power for each mode of operation, with a main (L+R) channel amplitude modulation not less than 85% and a left (L) only or right (R) only signal of not less than 75% over the audio frequency range from 50 to 5,000 Hz.

(2) For main channel modulation only, the total audio frequency distortion from terminals to antenna output shall not exceed 5% harmonics (voltage measurements of arithmetical sum or r.s.s.) when modulated from 0 to 84% and shall not exceed 7.5% harmonics (voltage measurements of arithmetical sums or r.s.s.) when modulating 85% to 95% (distortion shall be measured with modulating frequencies of 50, 100, 1000, 5000, and 7500 Hz up to tenth harmonic or 16,000 Hz, or any intermediate frequency that readings or these frequencies indicate is desirable). Harmonics should be observed to 20,000 Hz. When stereophonic transmission is used, the distortion must be measured in the left and right channels separately using a suitable stereophonic demodulator.

(3) The audio frequency transmitting characteristics for main (L+R), left (L) only and right (R) only modulation shall not depart more than 2 dB from that at 1000 Hz between 100 and 7500 Hz.

(4) The carrier-amplitude regulation (carrier shift) at any percentage of amplitude modulation by a main (L+R) channel signal shall not exceed 5%.

(5) The carrier hum and extraneous noise level, unweighted noise , over the frequency band 50 to 20,000 Hz for main channel (L+R), left (L), and right (R) channels must be at least 45 dB below the reference level of 100% amplitude modulation of the carrier by a 400Hz tone. Measurements shall be made with a suitable stereophonic demodulator.

(6) The incidental phase modulation of the transmitter must be measured with the main (L+R) channel modulated at the audio frequencies and modulation levels specified in paragraph (b)(2) above.

Note.—Specifications for incidental phase modulation are not established.

(7) For the first years following installation of stereophonic transmitting equipment, stereophonic separation between left and right stereophonic channels must be at least 15 dB at audio modulating frequencies between 400 and 5,000 Hz. After five years, stereophonic separation between left and right stereophonic channels must be at least 20 dB at audio modulating frequencies between 300 and 5,000 Hz.

2. 47 CFR 73.45 would be amended by revising paragraph (c) (1) and (2) to read as follows:

§ 73.45 AM antenna systems.

* * * * *

(c) * * *

(1) Whenever the measurements show that the antenna or common point resistance differs from that shown on the station authorization by more than 2% FCC Form 302 (FCC Form 341 for noncommercial educational stations) must be filed in accordance with § 73.54.

(2) Whenever the measurements show that the antenna or common point resistance does not differ by more than 2% from that shown on the station authorization, an informal application must be filed stating that the resistance has been measured to confirm that it has not been altered.

The affected text of 47 CFR 73.45 currently reads as follows:

§ 73.45 AM antenna systems.

* * * * *

(c)* * *

(1) Whenever the measurements show that the antenna or common point resistance differs from that shown on the station authorization, FCC Form 302 (FCC Form 341 for noncommercial educational stations) must be filed with the information and measurement data specified in § 73.54(a).

(2) Whenever the measurements show that the antenna or common point resistance does not differ from that shown on the station authorization, an informal application must be filed with the information specified in paragraphs (e) (3) through (8) of § 73.54.

3. 47 CFR 73.49 would be revised in its entirely to read as follows:

§ 73.49 AM transmission system installation and safety requirements.

(a) Stations are expected to comply with state and Federal regulations regarding proper employee safety standards for high voltage equipment.

(b) Antenna towers having radio frequency potential at the base (series fed, folded unipole, and insulated base antennas) must be enclosed within effective locked fences or other enclosures. Keys to the antenna base fences, tuning houses and protective cabinet locks must be available at the transmitter site at all times, and safe access must be provided to each antenna tower base for meter reading and maintenance purposes. However, individual tower fences need not be installed if the towers are within the property fence.

The affected text of 47 CFR 73.49 currently reads as follows:

§ 73.49 AM transmission system installation and safety requirements.

(a) The installation of the transmission system must be such that station personnel are not exposed to shock or burn hazards during their operating and maintenance duties. The following applies to all stations:

(1) Means must be provided for making all tuning adjustments, requiring voltages in excess of 350 volts to be applied to the circuit, from the front of the panels with all access doors closed.

(2) Proper bleeder resistors or other automatic means must be installed across all the condenser banks to remove any charge which may remain after the high voltage circuit is opened.

(3) All high voltage equipment, including transformers, filters, rectifiers and motor generators, must be protected so as to prevent injury to operating personnel.

(4) Commutator guards must be provided on all high voltage rotating machinery.

(5) The antenna ammeters (both regular and remote) and any other radio frequency instrument which it is necessary for the operator to read must be so installed as to be easily and accurately read without the operator having to risk contact with circuits carrying high potential radio frequency energy.

(6) Radio frequency power coupling, dividing and phasing networks must be installed with protective cabinets or enclosures which are locked or provided with safety interlocks, or so located or screened as not to be a hazard to operating personnel. Antenna coupling network cabinets located entirely within a locked enclosure around an antenna base, need not have a separate lock or interlock.

(7) The antenna lead-in, transmission line and counterpoise (when used) shall be installed so as not to present a hazard.

(8) Antenna towers having radio frequency potential at the base (series fed, folded unipole, and insulated base antennas) must be enclosed within effective locked fences or other enclosures. Keys to the antenna base fences, tuning houses and protective cabinet locks must be available at the transmitter site at all times, and safe access shall be provided to each antenna tower base for meter reading and maintenance purposes. Metal fencing and metal conduit and exposed nearby wiring must be effectively grounded, either directly or through bypass or static drain devices.

§ 73.53 [Amended]

4. 47 CFR 73.53, *Requirements for authorization of antenna monitors,* would be amended by removing paragraphs (c)(10) and (c)(12); and by redesignating current paragraphs (c)(11), (c)(13), and (c)(14) as paragraphs (c)(10), (c)(12), and (c)(13) respectively.

The affected text of 47 CFR 73.53 currently reads as follows:

§ 73.53 Requirements for authorization of antenna monitors.

* * * * *

(c) * * *

* * * * *

(10) If the monitor is fitted with operational features not specifically required by this section, the features:

(i) Shall be arranged so as not to interfere with or be confused with the required functions of the monitor.

(ii) Shall meet the manufacturer's specifications for such operational features.

(11) * * *

(12) The general design, construction and operation of the monitor shall be in accordance with good engineering practice.

* * * * *

§ 73.54 [Amended]

5. 47 CFR 73.54, *Antenna Resistance and Reactance Measurements,* would be amended by revising paragraphs (a) and the introductory text of (e) to read as follows:

(a) The resistance of an omnidirectional series fed antenna must be measured at the base of the antenna without intervening coupling networks or components, or at the output terminals of the transmitter at the point of connection to the transmission line as under the provisions of paragraph (b) below. (Static drain devices; current transformers; and circuits to isolate antenna monitor sampling lines, tower lighting power lines, or lines connecting other antennas mounted on the antenna tower are not considered to be antenna coupling networks or components.) The resistance of a shunt excited antenna may be measured at the point the radio frequency energy is transferred to the feed wire circuit or at the output terminals of the transmitter.

* * * * *

(e) Notification to determine power by the direct method described in § 73.51(a)(2) must specify the antenna or common point resistance. Stations must also keep the following information on file at the transmitter site:

* * * * *

The affected text of 47 CFR 73.54 currently reads as follows:

§ 73.54 Antenna resistance and reaction measurements.

a. The resistance of an omnidirectional series fed antenna shall be measured at the base of the antenna without intervening coupling networks or components. (Static drain devices; current transformers; and circuits to isolate antenna monitor sampling lines, tower lighting power lines, or lines connecting other antennas mounted on the antenna tower are not considered to be antenna coupling networks or components.) The resistance of a shunt excited antenna may be measured at the point the radio frequency energy is transferred to the feed wire circuit, without intervening networks, except that if the termination of the feed wire is highly reactive, a network containing no shunt elements may follow the point where the resistance is determined.

* * * * *

(e) Notification to determine power by the direct method described in § 73.51(a)(2) shall specify the antenna or common point resistance and shall include the following supporting information.

* * * * *

6. 47 CFR 73.128 would be amended by removing paragraph (b)(2) and by revising paragraph (c) to read as follows:

§ 73.128 AM stereophonic broadcasting.

* * * * *

(c) Each licensee or permittee of an AM station engaging in stereophonic broadcasting using a system with a pilot tone must measure the quiescent pilot tone frequency and injection level and calibrate at intervals as often as

necessary to insure compliance with the specifications for the system in use.

The affected text of 47 CFR 73.128 currently reads as follows:

§ 73.128 AM stereophonic broadcasting.

* * * * *

(b) * * *

* * * * *

(2) The total harmonic distortion as measured by an envelope detector having an input radio frequency bandwidth of 30 kHz (3 dB points) may not exceed 5% for the conditions of modulating specified (b)(1) of this section.

(c) Each licensee or permittee of an AM station engaging in stereophonic broadcasting using a system with a pilot tone shall measure the quiescent pilot tone frequency and injection level and calibrate at intervals as often as necessary to insure compliance with the specifications for the system in use. However, in any event, the measurements shall be made at least once each calendar month with not more than 40 days between successive measurements.

7. 47 CFR 73.150, would be amended by adding new paragraph (a)(1) to read as follows:

§ 73.150 Directional antenna systems.

(a) * * *

(1) Parties submitting directional antenna patterns pursuant to this section and § 73.152 (modified standard pattern) must submit patterns which are tabulated and plotted using units of millivolts per meter at one kilometer.

* * * * *

§ 73.181 [Removed]

8. 47 CFR 73.181, *Introduction To AM Technical Standards*, would be removed in its entirety.

The affected text of 47 CFR 73.181 currently reads as follows.

§ 73.181 Introduction to AM technical standards.

(a) There are presented in the following sections of this subpart the Technical Standards giving interpretations and further considerations concerning the technical rules and regulations governing AM broadcast stations. These standards have been approved by the Commission and reflect the opinion of the Commission in all matters involved.

Note.—See also § 73.28.

(b) The Technical Standards set forth in the following sections are those deemed necessary for the construction and operation of AM broadcast stations to meet the requirements of technical regulations set forth above and for operation in the public interest along technical lines not specifically enunciated above. These standards are based on the best engineering data available from evidence supplied in formal and informal hearings and extensive surveys conducted in the field by the Commission's personnel. Numerous informal conferences have been held with radio engineers, manufacturers of radio equipment and others for the guidance of the Commission in the formulation of these standards.

(c) These standards supersede any previous announcements or policies which may have been enunciated by the Commission on engineering matters concerning AM broadcast stations.

(d) While these standards provide for flexibility and set forth the conditions under which they are applicable, it is not expected that material deviation therefrom as to fundamental principles will be recognized unless full information is submitted as to the reasonableness of such departure and the need therefore.

(e) These standards will necessarily change as progress is made in the art, and accordingly it will be necessary to make revisions from time to time. The Commission will accumulate and analyze engineering data available as to the progress of the art so that its standards may be kept current with the developments.

(f) The Commission is in the process of converting its standards to the metric system. This process will be gradual with some of our standards and other requirements in the metric system while other of our standards and requirements may remain non-metric. Therefore, parties involved with AM broadcast stations and applications therefore should take extra care to avoid problems resulting from the mixing of the two systems.

(1) Parties submitting directional antenna patterns pursuant to §§ 73.150 and 73.152 (standard patterns and modified standard patterns) must submit patterns which are tabulated and plotted using units of millivolts per meter at one kilometer.

(2) The Rules and the applications forms (Forms 301, 302, 340, and 341) will be amended periodically as other changes to the metric system are made. Interested parties should check carefully to insure that the correct units are being used.

9. 47 CFR 73.182, would be amended by adding paragraph (c) to read as follows:

§ 72.182 Engineering standards of allocation.

* * * * *

(c) The Commission is in the process of converting its standards to the metric system. This process will be gradual, with some of our standards and other requirements in the metric system while other of our standards and requirements may remain nonmetric. Therefore, parties involved with AM broadcast stations and applications should take extra care to avoid problems from the mixing of the two systems. The Rules and application forms (Forms 301, 302, 340, and 341) will be amended periodically as changes to the metric system are made. Interested parties should check carefully to insure that the correct units are being used.

* * * * *

§ 73.186 [Amended]

10. 47 CFR 73.186, *Establishments Of Effective Field At One Mile*, would be amended by removing paragraphs (b)(6) through (b)(10) inclusive.

The affected text of 47 CFR 73.186 currently reads as follows:

§ 73.186 Establishment of effective field at one kilometer.

* * * * *

(b) * * *

(6) Antenna resistance measurement:

(i) Antenna resistance at operating frequency.

(ii) Description of method employed.

(iii) Tabulation of complete data.

(iv) Curve showing antenna resistance versus frequency.

(7) Antenna current or currents maintained during field strength measurements.

(8) Description, accuracy, date and by whom each instrument was last calibrated.

(9) Name, address, and qualifications of the engineer making the measurements.

(10) Any other pertinent information.

§ 73.188 [Removed]

11. 47 CFR 73.188, *Location of Transmitters*, would be removed in its entirety.

The affected text of 47 CFR 73.188 currently reads as follows.

§ 73.188 Location of transmitters.

(a) The four primary objectives to be obtained in the selection of a site for a transmitter of a broadcast station are as follows:

(1) To adequately serve the community to which the station is to be authorized.

(2) To cause and experience minimum interference to and from other stations.

(3) To present a minimum hazard to air navigation consistent with objectives (1) and (2).

(4) To fulfill certain other requirements given in the following paragraphs of this section.

(b) The site selected should meet the following conditions:

(1) A minimum field strength of 5mV/m will be obtained over the entire principal community to be served.

(2) The population within the blanket contour does not exceed that specified by § 73.24(g).

(c) [Reserved]

(d) [Reserved]

(e) If it is determined that a site should be selected removed from the city, there are several general conditions to be followed in determining the exact site. Three maps should be given consideration if available:

(1) Map of the density of population and number of people by sections in the area.

(2) Geographical contour map with contour intervals of 20 to 50 feet.

(3) Map showing the type, nature and depth of the soil in the area with special reference to the condition of the moisture throughout the year.

From these maps a site should be selected with a minimum number of intervening hills between it and the center of the city. In general, because of ground conditions, it is better to select a site in a low area rather than on top of a hill, and the only condition under which a site on top of a hill should be selected is that it is only possible by this means to avoid a substantial number of hills, between the site and the center of a city with the resulting radio shadows. If a site is to be selected to serve a city which is on a general sloping area, it is generally better to select a site below the city than above the city.

(f) If a compromise must be made between probable radio shadows from intervening hills and locating the transmitter on top of a hill, it is generally better to compromise in favor of the low area, where an efficient radiating system may be installed which will more than compensate for losses due to shadows being caused by the hills, if not too numerous or too high. Several transmitters have been located on tops of hills, but so far as data has been supplied not a single installation has given superior efficiency of propagation and coverage.

(g) The ideal location of a broadcast transmitter is in a low area of marshy or "crawfishy" soil or area which is damp the maximum percentage of time and from which a clear view over the entire center of population may be had and the tall buildings in the business section of the city would cast a shadow across the minimum residential area.

(h) The type and condition of the soil or earth immediately around a site is very important. Important, to an equal extent, is the soil or earth between the site and the principal area to be served. Sandy soil is considered the worst type, with glacial deposits and mineral-ore areas next. Alluvial, marshy areas and salt-water bogs have been found to have the least absorption of the signal. One is fortunate to have available such an area and, if not available, the next best condition must be selected.

(i) Figure M3 (See Note to § 73.183(c)) and Figure R3 of § 73.190 indicates effective conductivity values in the United States, and are to be used for determining the extent of broadcast station coverage when adequate field strength measurements over the path in question are not available. Since the values specified are only for general areas and since conductivity values over particular paths may vary widely from those shown, caution must be exercised in using the maps for selection of a satisfactory transmitter site. Where the submission of field strength measurements is deemed necessary or advisable, the Commission, in its discretion, may require an applicant for new or change broadcast facilities to submit such data in support of its application.

(j) In general, broadcast transmitters operating with approximately the same power can be grouped in the same approximate area and thereby reduce the interference between them. If the city is of irregular shape, it is often possible to take advantage of this in selecting a suitable location that will give a maximum coverage. The maps giving the density of population will be a key to this. The map giving the elevation by contours will be a key to the obstructing hills between the site and city. The map of the soil conditions will assist in determining the efficiency of the radiating system that may be erected and the absorption of the signal encountered in the surrounding area.

(k) Another factor to be considered is the relation of the site to airports and airways. Procedures, and standards with respect to the Commission's consideration of proposed antenna structures which will serve as a guide to persons intending to apply for radio station licenses are contained in Part 17 of this chapter (Construction, Marking and Lighting of Antenna Structures).

(l) In finally selecting the site, consideration must be given to the required space for erecting an efficient radiating system, including the ground or counterpoise. It is the general practice to use direct grounds consisting of a radial buried wire system. If the area is such that it is not possible to get such ground system in soil that remains moist throughout the year, it probably will be found better to erect a counterpoise. (Such a site should be selected only as a last resort.) It, like the antenna itself, must of course be designed properly for the operating frequency and other local conditions.

(m) It is sometimes necessary to make a field strength survey to determine that the site selected will be entirely satisfactory. There are several facts that cannot be determined by inspection that make a survey very desirable for all locations removed from the city. Often two or more sites may be selected that appear to be of equal promise. It is only by means of field strength surveys taken with a transmitter at the different sites or from measurements on the signal of nearby stations traversing the terrain involved that the most desirable site can be determined. There are many factors regarding site efficiency that cannot be determined by any other method. When making the final selection of a site, the need for a field strength survey to establish the exact conditions cannot be stressed too strongly. The selection of a proper site for an AM station is an important engineering problem and can only be done properly by an adequate engineering study.

12. 47 CFR 73.189, would be amended by adding new paragraph (c), by removing paragraphs (b)(4) and (b)(6), by revising paragraph (b)(7) and by redesignating current paragraphs (b)(5), (b)(7), (b)(8), and (b)(9) as (b)(4), (b)(5), (b)(6), and (b)(7) respectively to read as follows:

§ 73.189 Minimum antenna heights or field strength requirements.

* * * * *

(b) * * *

(6) In case it is contended that the required efficiency can be obtained with an antenna of height or ground system less than the minimum specified, a complete field strength survey must be supplied to the Commission showing that the field strength at a mile without absorption fulfills the minimum requirements. (see § 73.186)

* * * * *

(c) The selected transmitter site should meet the following conditions:

(1) A minimum field strength of 5 mV/m will be obtained over the entire principal community to be served.

(2) The population within the blanketing contour does not exceed that specified by § 73.24(g).

The affected text of 47 CFR 73.189 currently reads as follows:

§ 73.189 Minimum antenna height or field strength measurements.

* * * * *

(b) * * *

* * * * *

(4) To obtain the maximum efficiency of which any antenna is capable a good ground system must be employed (a counterpoise may be substituted under certain conditions).

(5) * * *

(6) It should be borne in mind that the above specifications are the minimums and where possible better antenna and ground systems should be installed.

(7) In case it is contended that the required antenna efficiency can be obtained with an antenna of height or ground system less than the minimum specified, a complete field strength survey must be supplied to the Commission showing that the field strength at a mile without absorption fulfills the minimum requirements. (see § 73.186) This field survey must be made by a qualified engineer using equipment of acceptable accuracy.

* * * * *

13. 47 CFR 73.1215 would be amended by revising paragraph (e) to read as follows:

§ 73.1215 Specifications for indicating instruments.

* * * * *

(e) Digital meters, printers, or other numerical readout devices may be used in addition to or in lieu of indicating instruments meeting the specifications of paragraphs (a), (b), (c) and (d) of this section. The readout of the device must include at least three digits and must indicate the value of the parameter being read to an accuracy of at least 2%. The multiplier to be applied to the reading of each parameter must be indicated at the operating position of a switch used to select the parameter for display.

* * * * *

The affected text of 47 CFR 73.1215 currently reads as follows:

§ 73.1215 Specifications for indicating instruments.

* * * * *

(e) Digital meters, printers, or other numerical readout devices may be used in addition to or in lieu of indicating instruments meeting the specifications of paragraphs (a), (b), (c) and (d) of this section. If a single digital device is used at the transmitter fo reading operating parameters, either: (1) Indicating instruments meeting the above specifications must be installed in the transmitter and the antenna circuit; or (2) a spare digital device must be maintained at the transmitter with provision for its rapid substitution for the main device should that device malfunction. The readout of the device must include at least three digits and must indicate the value of the parameter being read to an accuracy of at least 2%. The multiplier to be applied to the reading of each parameter must be indicated at the operating position of a switch used to select the parameter for display.

* * * * *

§ 73.1590 [Amended]

14. 47 CFR 73.1590, *Equipment Performance Measurements*, would be amended by removing paragraphs (b)(2)(i), (b)(2)(ii), (b)(2)(iii), (b)(2)(iv), (b)(2)(vi), (b)(2)(vii), and (b)(2)(viii); and by redesignating current paragraph (b)(2)(v) as (b)(2)(i).

The affected text of 47 CFR 73.1590 currently reads as follows:

§ 73.1590 Equipment performance measurements.

* * * * *

(b) * * *

* * * * *

(2) AM Stereophonic Stations.

(i) Data and curves showing the overall audio frequency response from 50 to 15,000 Hz for approximately 25%, 50%, 75%, and 100% modulation with equal left and right (L+R) main channel signal; 25%, 50%, and 75% modulation with both a left (L) channel only and right (R) channel only signals.

(ii) Data and curves showing audio frequency harmonic content for 25%, 50%, 75%, and (main channel only) 100% modulation for the audio frequencies 50, 100, 400, 1000, 5000, and when attainable 7,500, 10,000, 12,000 and 15,000 Hz (either arithmetical or RSS (root sum square) values up to 10th harmonic or 30,000 Hz) for equal and right (L=R), left (L) only and right (R) only signals. A family or curves must be plotted (one for each percentage above) with percent distortion as ordinate and audio frequencies as abscissa.

(iii) Data showing percentage of carrier amplitude regulation (carrier shift) for 25, 50, 85, and, if attainable, 100% modulation with 400 Hz tone for main channel modulation with equal left and right (L=R) signals.

(iv) The carrier hum and extraneous noise level generated within the equipment, and measured throughout the audio spectrum, or band, in dB below the reference level of 100% amplitude modulation by a 400 Hz tone for the main, left, and right channels.

(v) Measurements or observations for spurious and harmonic radiation as specified in paragraph (b)(1)(v) above while modulating the transmitter main (L+R) channel only, left (L) channel only, right (R) channel only and stereophonic channel only (L-R) signal. The tests shall be made with the tones and maximum attainable normal modulation as specified in § 73.128(b).

(vi) The degree of incidental phase modulation of the carrier wave, in radians, when the main (L+R) channel is amplitude modulated without pilot tone. The tests shall be made with the tones and maximum attainable modulation levels as specified in (2)(i) of this paragraph.

(vii) The main to stereophonic channel and the stereophonic to main channel crosstalk. The tests shall be made with the tones and maximum attainable normal modulation as specified in (2)(i) of this paragraph.

(viii) In the above measurements, if 100% negative peak modulation is not attainable, the highest attainable modulation percentage between 95% and 100% modulation shall be used.

* * * * *

[FR Doc. 85-13017 Filed 5-30-85; 8:45 am]

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DEPARTMENT OF DEFENSE

GENERAL SERVICES ADMINISTRATION

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

48 CFR Part 3

Federal Acquisition Regulation (FAR); Implementation of Executive Order 12448 Regarding Voiding and Rescinding Contracts

AGENCIES: Department of Defense (DoD), General Services Administration (GSA), and National Aeronautics and Space Administration (NASA).

ACTION: Proposed rule.

SUMMARY: The Civilian Agency Acquisition Council and the Defense Acquisition Regulatory Council are considering a revision of the Federal Acquisition Regulation (FAR) that adds a new Subpart 3.7, Voiding and Rescinding Contracts.

DATE: Comments on the proposed new subpart should be submitted in writing to the FAR Secretariat at the address shown below on or before July 1, 1985 to

be considered in the formulation of final rule.

ADDRESS: Interested parties should submit written comments to: General Services Administration, Attn: FAR Secretariat (VR), 18th and F Streets NW., Room 4041, Washington, DC 20405.

Please cite FAR Case 85–27 in all correspondence related to this issue.

FOR FURTHER INFORMATION CONTACT: Roger M. Schwartz, Director, FAR Secretariat, (202) 523–4755.

SUPPLEMENTARY INFORMATION: Following is a proposed FAR amendment to implement Executive Order 12448 regarding voiding and rescission of contracts under the authority of 18 U.S.C. 218. The proposed coverage adds a new Subpart 3.7 to the FAR and provides policy and procedures for agencies to void or rescind contracts in relation to which there has been a final conviction for bribery, conflict of interest, or any other violation of Chapter 11 of Title 18 of the United States Code.

List of Subjects in 48 CFR Part 3

Government procurement.

Dated: May 28, 1985.

Roger M. Schwartz,

Director, FAR Secretariat.

PART 3—IMPROPER BUSINESS PRACTICES AND PERSONAL CONFLICTS OF INTEREST

Therefore, it is proposed that 48 CFR Part 3 be amended as follows:

1. The Authority for Part 3 continues to read as follows:

Authority: 40 U.S.C. 486(c); Chapter 137, 10 U.S.C.; 42 U.S.C. 2453(c)).

2. Part 3 is amended by adding a new Subpart 3.7, consisting of sections 3.700 through 3.705, to read as follows:

Subpart 3.7—Voiding and Rescinding Contracts

3.700 Scope of subpart.
3.701 Purpose.
3.702 Definition.
3.703 Authority.
3.704 Policy.
3.705 Procedures.

Authority: 40 U.S.C. 486(c); Chapter 137, 10 U.S.C.; and 42 U.S.C. 2453(c).

Subpart 3.7—Voiding and Rescinding Contracts

3.700 Scope of subpart.

(a) This subpart prescribes Government-wide policies and procedures for exercising discretionary authority to declare void and rescind contracts in relation to which there has been a final conviction for bribery, conflict of interest, or similar misconduct, and to recover the amounts expended and property transferred therefor.

(b) This subpart does not prescribe policies or procedures for, or govern the exercise of, any other remedy available to the Government with respect to such contracts, including but not limited to, the common law right of avoidance, rescission, or cancellation.

3.701 Purpose.

This subpart provides a means to—

(a) Restore the Government to its original position with respect to contracts in relation to which there has been a final conviction for bribery, conflict of interest, or similar misconduct; and

(b) Deter similar misconduct in the future by those who are involved in the award, performance, and administration of Government Contracts.

3.702 Definition.

"Final conviction" means a conviction, whether entered on a verdict or plea, including a plea of *nolo contendere*, for which sentence has been imposed.

3.703 Authority.

Section 1(e) of Pub. L. 87–849, 18 U.S.C. 218, ("the Act"), empowers the President or the head to executive agencies acting under regulations prescribed by the President, to declare void and rescind contracts and other transactions enumerated in the Act, in relation to which there has been a final conviction for bribery, conflict of interest, or any other violation of Chapter 11 of Title 18 of the United States Code (18 U.S.C. 201–224). Executive Order 12448, November 4, 1983, delegates the President's authority under the Act to the heads of the executive agencies and military departments.

3.704 Policy.

(a) In cases in which there is a final conviction for any violation of 18 U.S.C. 201–224 involving or relating to contracts awarded by an agency, the agency head or designee shall consider the facts available and, if appropriate, may declare void and rescind contracts, and recover the amounts expended and property transferred, in accordance with FAR Subpart 9.4, Debarment, Suspension and Ineligibility, if debarment has not been initiated or is not in effect at the time the final conviction is entered.

3.705 Procedures.

(a) *Reporting.* The facts concerning any final conviction for any violation of 18 U.S.C. 201–224 involving or relating to agency contracts shall be reported promptly to the agency head or designee for that official's consideration.

(b) *Decision.* Following an assessment of the facts, the agency head or designee may declare void and rescind contracts with respect to which a final conviction has been entered, and recover the amounts expended and the property transferred by the agency under the terms of the contracts involved.

(c) *Decision-making process.* Agency procedures shall be as informal as is practicable, consistent with the principles of fundamental fairness. As a minimum, however, the procedures shall provide the following:

(1) A notice of the proposed action to declare void and rescind the contract shall be made in writing and sent by certified mail, return receipt requested.

(2) Thirty calendar days after receipt of the notice in which to submit pertinent information shall be permitted before any final decision is made.

(3) Upon request made within the period for submission of pertinent information, an opportunity shall be afforded for a hearing at which witnesses may be presented, and any witness the agency presents may be confronted.

(4) If the agency head or designee decides to declare void and rescind the contracts involved, that official shall issue a written decision which—

(i) States that determination;

(ii) Reflects consideration of the fair value of any tangible benefits received and retained by the agency; and

(iii) States the amount due and the property to be returned.

(d) *Notice of proposed action.* The notice of the proposed action, as a minimum, shall—

(1) Advise that consideration is being given to declaring void and rescinding contracts awarded by the agency, and recovering the amounts expended and property transferred therefor, under the provisions of 18 U.S.C. 218;

(2) Specifically identify the contracts affected by the action;

(3) Specifically identify the final conviction upon which the action is based;

(4) State the amounts expended and property transferred under each of the contracts involved, and the money and the property demanded to be returned;

(5) Identify any tangible benefits received and retained by the agency under the contract, and the value of those benefits, as calculated by the agency;

(6) Advise the pertinent information may be submitted within 30 calendar days after receipt of the notice, and that if requested within that time, a hearing

shall be held at which witnesses may be presented and any witness the agency presents may be confronted; and

(7) Advise that action shall be taken only after the agency head or designee issues a final written decision on the proposed action.

(e) *Final agency decision.* The final agency decision shall be based on the information available to the agency head or designee, including any pertinent information submitted or, if a hearing was held, presented at the hearing. If the agency decision declares void and rescinds the contract, the final decision shall specify the amounts due and property to be returned to the agency, and reflect consideration of the fair value of any tangible benefits received and retained by the agency. Notice of the decision shall be sent promptly by certified mail, return receipt requested. Rescission of contracts under the authority of the Act and demand for recovery of the amounts expended and property transferred therefor, is not a claim within the meaning of the Contract Disputes Act of 1978 (CDA), 41 U.S.C. 601–613, or Part 33. Therefore, the procedures required by the CDA and the FAR for the issuance of a final contracting officer decision are not applicable to final agency decisions under this subpart, and shall not be followed.

[FR Doc. 85–13105 Filed 5–30–85; 8:45 am]

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NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

48 CFR Parts 1832 and 1852

Changes to NASA FAR Supplement

AGENCY: NASA Office of Procurement, Procurement Policy Division.

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice invites written comments on the NASA proposal to amend the NASA Federal Acquisition Regulation Supplement, Chapter 18 of the Federal Acquisition Regulations System (see 49 FR 6388, Feb. 21, 1984) by changing NASA's customary progress payment and liquidation rates to match those promulgated by the Department of Defense.

DATE: Comments are due not later than July 1, 1985.

ADDRESS: Comments should be addressed to the Office of Procurement, NASA Headquarters, Procurement Policy Division (Code HP), Washington, D.C. 20546.

FOR FURTHER INFORMATION CONTACT: W.A. Greene, Procurement Policy Division (Code HP), Office of Procurement, NASA Headquarters, Washington, D.C. 20546. Telephone (202) 453–2119.

SUPPLEMENTARY INFORMATION:

Background

The customary progress payment rates have been raised over the last several years in response to increases in the inflation rate and prime lending rate. These rates have now substantially decreased, making a reduction in the subject customery rates appropriate. The Department of Defense, in an April 10, 1985 memorandum, reduced its customery rates; inasmuch as NASA does business with many of the same contractors, it is considered appropriate to utilize the same rates. Thus, this rule provides uniformity with other Federal agencies and reduces the administrative impact on bidders as set forth in OFPP Policy Letter 83–2. On May 7, 1985, this proposed change was forwarded to the Office of Management and Budget for review in accordance with OMB Bulletin 85–7, December 14, 1984 and Executive Order 12291. The review has been concluded.

Impact

NASA has determined that this rule is not a major rule for the purposes of Executive Order 12291, dated February 17, 1981, because it is not likely to result in an annual effect on the economy of $100 million or more; a major increase in costs to consumers or others; or significant adverse effects. NASA has based all administrative decisions underlying this rule on adequate information concerning the need for, and consequences of, this rule; has determined that the potential benefits to society from the rules outweigh the potential costs and has maximized the net benefits; and has chosen the alternative approach involving the least net cost to society.

List of Subjects in 49 CFR Ch. 18

Government procurement.

S.J. Evans,

Assistant Administrator for Procurement.

1. The authority citation for 48 CFR Ch. 18 reads as follows:

Authority: 42 U.S.C. 2473(c)(1).

PART 1832—CONTRACT FINANCING

2. Section 1832.501–170 is added to read as follows:

1832.501–170 NASA Rates.

Customary rates of 80 percent for contracts with other than small businesses and 90 percent for contracts with small businesses shall be substituted for the rates of 90 and 95 percent in FAR 32.501–1(a).

PART 1852—SOLICITATION PROVISIONS AND CONTRACT CLAUSES

3. Section 1852.232–1670 is added to read as follows:

1852.232–1670 NASA Modification.

(a) In the clause at FAR 52.232–16, change the rate of 90 percent to 80 percent in paragraphs (a)(1), (a)(5), and

(b) In Alternate I of FAR 52.232–16, in the preface and in subparagraph (a)(1), change the rate of 95 percent to 90 percent.

[FR Doc. 85–13093 Filed 5–30–85; 8:45 am]

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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Parts 611 and 630

[Docket No. 50581–5081]

Foreign Fishing, and Atlantic Swordfish Fishery

AGENCY: National Marine Fisheries Service (NMFS), NOAA, Commerce.

ACTION: Proposed rule.

SUMMARY: NOAA issues and requests comments on this proposed rule to implement conservation and management measures as prescribed in the proposed Fishery Management Plan for the Atlantic Swordfish Fishery (FMP). The proposed rule would (1) reduce the catch of fish under a dressed weight of 50 pounds to the 1980 level by closing areas for specified times, (2) establish a data collection program to monitor and refine the FMP, and (3) limit the bycatch of swordfish by foreign longliners and squid trawlers. The intended effect of the proposed rule is to maintain high landings in the form of larger fish that are preferred in the market, prevent growth overfishing, provide a buffer against possible recruitment overfishing, obtain the information necessary to monitor the fishery and refine the management regime, and minimize the impacts of foreign fishing on the domestic swordfish fishery.

DATES: Comments on the proposed rule must be received on or before July 12, 1985.

ADDRESSES: Comments on the proposed rule and requests for copies of the FMP, regulatory impact review/initial regulatory flexibility analysis, or final environmental impact statement should be sent to Donald W. Geagan, Southeast Region, National Marine Fisheries Service, 9450 Koger Boulevard, St. Petersburg, FL 33702.

FOR FURTHER INFORMATION CONTACT: Donald W. Geagan, 813–893–3722.

SUPPLEMENTARY INFORMATION: The South Atlantic Fishery Management Council (Council) prepared the Fishery Management Plan for the Atlantic Swordfish Fishery in cooperation with the Caribbean, Gulf of Mexico, Mid-Atlantic, and New England Fishery Management Councils. A notice of availability of the FMP was published in the **Federal Register** on May 2, 1985 (50 FR 18717). These regulations would implement the FMP.

The FMP manages the Swordish, *Xiphias gladius*, shoreward of the outer boundary of the fishery conservation zone (FCZ) in the Atlantic Ocean, Gulf of Mexico and Caribbean Sea. While swordfish hava a world-wide distribution there is evidence that there is a "Western North Atlantic" stock that can be treated as a unit for management purposes.

Fishing Methods

Swordfish are caught by (1) longlines, (2) harpoon, (3) drift entanglement nets, and (4) rod and reel, and are caught incidentally by (5) foreign tuna longlines, and (6) domestic and foreign squid trawls. Reported domestic landings (1983) were 9.3 million pounds (8.7 million pounds by longlines and 0.6 million pounds by harpoon), worth at least $29 million ex-vessel price. The rod-and-reel sport fishery increased in the late seventies but is now very small. Total foreign longline bycatch of swordfish in the FCZ has decreased from 8,075 fish in 1980 to approximately 402 fish in 1984. Total foreign trawl bycatch of swordfish was approximately 176,000 pounds in 1982 and decreased to approximately 86,000 pounds in 1983.

Fishery Status

The fishery is in or near a state of growth overfishing. If increased harvest of small fish is not restricted, further growth overfishing will occur. This will reduce total landings and will also reduce total revenues to the industry because the changing age structure of the stock will produce fewer large fish which have a higher value per pound. Even without growth overfishing there are economic and biological advantages to delaying the harvest of small fish until they are larger.

Optimum Yield

Optimum yield is defined as the harvest that results when no more than the optimum number of swordfish under a dressed weight of 50 pounds are harvested. This optimum number is 33,750 fish—the number of fish less than 50 pounds reported as landed by U.S. commercial fishermen in 1980. In 1983, 39,718 swordfish under a dressed weight of 50 pounds were reported landed. Optimum yield is tied to the number of small fish to provide a numerical estimate for monitoring purposes. Additionally, the actual harvest may increase or decrease as long as the optimum number of fish under 50 pounds is not exceeded. Optimum yield, measured in numbers of small swordfish, may be revised by amending the regulations when better scientific information becomes available.

Regulating U.S. Fishing

Domestic landings of small swordfish are controlled by a variable season closure (VSC). The VSC closes fishing months with the highest concentrations of small fish relative to total catch in each area. The length of the closures in each area is based on the percentages of small fish caught in each area.

The VSC is a measure to control the harvest of small fish if other more preferred methods, such as the voluntary reduction in the catch of small fish, are not effective. The computation of the VSC is such that if, for whatever reason, the catch of small fish is expected to be below the optimal number of small fish, then there is no closure. The length of the closures in each area is adjusted annually based on the catch of small fish. It is possible to have combinations of voluntary actions by fishermen, a minimum size limit, and adjusted closures to reduce the catch of small swordfish.

Projected 1985 Closures

The following are projections of closures in 1985 based on 1983 data. These projections may be revised in late 1985 to incorporate 1984 data.

North of Cape Hatteras:
Begin November 7, 1985, for 24 days.
Cape Hatteras—Georgia/Florida border:
Begin October 15, 1985, for 47 days.
Georiga/Florida border to Gulf of Mexico:
Begin November 1, 1985, for 60 days.
Gulf of Mexico—Texas/Mexico border:
Begin November 1, 1985, for 37 days.
Puerto Rico and U.S. Virgin Islands:
Begin November 1, 1985, for 60 days.

The plan requires that the previous year's data and analysis be updated by March 15 of the following year. The latest update before the first closure (October/November 1985) will be in late 1985 (delayed due to difficulties in analyzing the 1984 data), and the lengths of the closures for 1985 will be based on that update. The closures could be longer or shorter than what has been predicted, depending on whether more or less small fish (under dressed weight of 50 pounds) were caught in 1984 than 1983 and whether there is new evidence that a minimum size limit or other action will effectively curtail the catch of small fish. The computation of the VSC automatically takes into account any other action that reduces the catch of small fish such that there may not be a closure.

Prohibitions and Exemptions

All swordfish caught for sale must be landed whole or as dressed carcasses (see definition in § 630.2). In a closed area, fishing for swordfish by other than exempt gear is prohibited; the possession of swordfish at sea shoreward of the outer boundary of the FCZ is prohibited except for vessels with exempt gear; and the landing of swordfish taken by other than exempt gear is prohibited. No pelagic longlining or drift entanglement netting is allowed at night (1800—0500 hours, local time) in a closed area. No vessel with operable longlines or nets can posses swordfish in a closed area. Daylight longlining and drift entanglement netting for species other than swordfish can continue in closed areas but the swordfish bycatch must be released.

Harpoon gear is exempt from the VSC, but during a closure harpooned swordfish are subject to a minimum size limit of 125 pounds, dressed weight, and landings of harpooned swordfish are restricted to their historical level if the closure occurs between June and October. Rod and reel gear is exempt from the closure but the fish cannot be sold. The traditional handline fishery in the Caribbean is allowed an incidental catch limit of one swordfish per trip during their closure and such fish may be sold.

Regulating Foreign Fishing

Swordfish measures in the Preliminary Fishery Management Plan for Atlantic Billfishes and Sharks (1978), and amendments to that plan (1982 and 1983), with some modifications are adopted into this plan. These include seasonal closures and the provision that no swordfish may be retained. In addition, the foreign bycatch of

swordfish while tuna longlining or squid trawling is restricted. The quota (number of fish hooked) for the foreign longline swordfish bycatch is 1,136 fish in the Atlantic and Caribbean and 400 fish in the Gulf of Mexico. The Gulf of Mexico and Dry Tortugas closures would be reserved so long as foreign fishing does not occur in the Gulf of Mexico. The swordfish bycatch for foreign squid trawlers is limited to the 1982 ratio of swordfish to target catch in the foreign squid trawls in the New England and Mid-Atlantic regions (0.06 swordfish per metric ton of a squid TALFF). Any restrictions that apply to U.S. fishermen also apply to equivalent foreign fishing such as the daytime fishing restriction for longlines.

Statistical Reporting

All vessel owners and operators intending to retain swordfish for sale, or any commercial fishing vessel with a bycatch of swordfish whether or not retained for sale, must obtain a permit from the NMFS Director, Southeast Region (Regional Director). Individuals fishing with rod and reel are not required to have a permit except in the Mid-Atlantic area. The fishery will be monitored primarily with data collected by technicians placed aboard a sample of U..S commercial swordfishing boats or commercial fishing vessels with a bycatch of swordfish. Participation is mandatory for vessels selected. The primary purpose of placing technicians aboard vessels on a sample number of trips is to collect biological data for age and growth analysis and to determine sex ratios by size and area. This information is the basis for predicting gains from delaying the harvest of any size fish and to provide information which will allow further refinements of the plan. In addition to the basic biological data, the technician would collect other critical data on size selectivity of fishing gear or techniques, survival of hooked swordfish, and bycatch data that may alter the plan. The onboard technician program also provides the opportunity to determine the accuracy of information voluntarily submitted under the auspices of the swordfish plan. The data collection program, whereby observers (or technicians) are placed on vessels using drift entanglement nets, established by NMFS at the request of the Councils will continue under the swordfish plan until there are sufficient data to evaluate drift entaglement nets. This program specifies coverage as close to 100 percent as possible.

The Councils recognize that an at-sea technician program will be costly. They considered other alternatives—interview fishermen with existing port agents; require fishermen to maintain a logbook; require that swordfish be landed with head, fins, and ovaries intact; and require fishermen to collect hard parts and determine sex—before ultimately concluding that only the at-sea technician program provides the necessary information. If at any time a more cost-effective alternative other than onboard technicians that provides the necessary information becomes available, it will be adopted by regulatory amendment.

In the Caribbean, commercial fishermen (permit holders) are required to report the individual carcass weight of all swordfish landed in Puerto Rico and the U.S. Virgin Islands.

Anyone, including recreational fishermen, desiring to fish for and retain swordfish caught from the Mid-Atlantic region is required to obtain a permit. There will be no additional technician coverage beyond that required in other areas, but at least 20 percent of all swordfish fishermen (both commercial and recreational) will be sampled for additional information, by questionnaire. Data will be collected on catch rates, participation rates, and other data.

Classification

Section 304(a)(1)(C)(ii) of the Magnuson Fishery Conservation and Management Act, as amended (Magnuson Act) requires the Secretary of Commerce (Secretary) to publish regulations proposed by a Council within 30 days of receipt of the FMP and regulations. At this time the Secretary has not determined that this FMP is consistent with the national standards, other provisions of the Magnuson Act, and other applicable law. The Secretary, in making that determination, will take into account the data, views, and comments received during the comment period.

The Council prepared a draft environmental impact statement for this FMP; a notice of availability was published on March 4, 1983 (48 FR 9365).

The NOAA Administrator determined that this proposed rule is not a "major rule" requiring a regulatory impact analysis under Executive Order 12291 because the proposed regulations will not result in an annual effect on the economy of $100 million or more since the maximum amount of gross income changes would be an annual increase of about $740,000.

Minimal increased costs or price changes from a closure would occur during the last four months of a year since this period (1) produces the smallest loss in the total harvest (by weight) while achieving the necessary reductions in the catch of small fish; (2) involves the lowest value per pound for a swordfish during a fishing season; and (3) will not promote vessel migrations to avoid closures.

The rule is not expected to have a significant adverse effect on competition, employment, investment, productivity, innovation, or the ability of U.S. firms to compete with foreign firms. The closure would primarily affect the user group (domestic longline vessels) which accounts for most of the small fish harvested. Since domestic harpoon vessels normally cease fishing for swordfish by the end of the summer, the cap on their landings at historical levels during the closure should not adversely affect them. The other domestic users with minimal catches of swordfish such as the recreational hook-and-line fleet are exempt from the closure and domestic tuna longline vessels are not allowed to retain the incidental catch of swordfish and fish at night during the closure. Swordfish dealers would be prohibited from importing into the United States swordfish from the western North Atlantic stock harvested in areas adjacent to closed areas. Foreign tuna longline and squid vessels would be required to stop fishing when the incidental bycatch of swordfish reaches the quota.

The Council prepared a regulatory impact review (RIR) which concludes that this rule will have the following economic effects.

The proposed regulations will result in benefits to the fishermen and to the economy that are greater than the associated Federal costs to manage the fishery on a continuing basis.

Benefits will accrue as the harvest of small swordfish is reduced and those fish are afforded sufficient time to grow to larger, more valuable sizes. Not only will an amount larger than revenues lost during the closure be recovered over the course of the year, but the action will also allow those small swordfish to attain a larger size and, thus, increase spawning potential. The amount of benefits will vary depending on the time required to recover the catch lost during the 1 to 2 month closed season. Although annual benefits could range from $284,742 for a 4-month recovery period to $738,832 for a 12-month period, for the purposes of the benefit/cost analysis, the recovery period is assumed to be 7 months with annual benefits of about $473,056.

Costs associated with the plan include plan development costs of about $771,858 to be amortized over the tenure of the plan. Annual costs of about

$203,750 will be incurred for administration, data collection and analysis, and enforcement activities.

The plan is estimated to result in a positive benefit/cost ratio of 2.32 based on the present value of annual benefits and costs over a 20-year period, discounted at 10 percent.

There are additional benefits from plan implementation that cannot be quantified at this time. The no-action alternative would result in the continued increase in the catch of fish under 50 pounds. This is prevented under the FMP which results in additional benefits. Further refinements to the plan resulting form the onboard technician program will lead to increased benefit.

This proposed rule is exempt from the procedures of Executive Order 12291 under section 8(a)(2) of that order. Deadlines imposed under section 304 of the Magnuson Act require the Secretary to publish this proposed rule 30 days after its receipt. Accordingly, the proposed rule is being reported to the Director, Office of Management and Budget, with an explanation of why it is not possible to follow procedures of the order.

The Council prepared an initial regulatory flexibility analysis as part of the regulatory impact review which concludes that this proposed rule, if adopted, would have significant effects on small entities. The effects are included in the RIR which is summarized above. You may obtain a copy of this analysis from the Southeast Regional Office at the address noted above.

This rule contains a collection of information requirement subject to the Paperwork Reduction Act (PRA). A request to collect this information has been submitted to the Office of Management and Budget for review under section 3504(h) of the PRA.

The Council determined that this rule will be implemented in a manner that is consistent to the maximum extent practicable with the approved coastal zone management programs of all the affected States. This determination has been submitted for review by the responsible State agencies under section 307 of the Coastal Zone Management Act.

Substantive Change

The Council issued an ERRATA to the FMP adding proposed regulatory text to amend parts of §§ 611.60 and 611.61. These proposed regulations reflect the Council's intent.

List of Subjects

50 CFR Part 611

Fish, Fisheries, Foreign relations, Reporting requirements.

50 CFR Part 630

Fish, Fisheries, Fishing.

Dated: May 28, 1985.

Joseph W. Angelovic,

Deputy Assistant Administrator for Science and Technology, National Marine Fisheries Service.

For the reasons set forth in the preamble, 50 CFR Part 611 is proposed to be amended and Chapter VI of 50 CFR is proposed to be amended by adding a new Part 630 to read as follows:

PART 611—[AMENDED]

1. The authority citation for 50 CFR Part 611 is as follows:

Authority: 16 U.S.C. 1801 *et seq.*, unless otherwise noted.

2. Section 611.60 is amended by adding a new paragraph (a)(3) to read as follows:

§ 611.60 General provisions.

(a) * * *

(3) Regulations governing fishing for swordfish in the same geographical area by vessels of the United States are published as Part 630 of this chapter.

* * * * *

3. Section 611.61 is amended by revising paragraph (b)(2), and adding new paragraphs (b) (3) and (4), and (g) to read as follows:

§ 611.61 Atlantic billfish and shark fishery.

* * * * *

(b) * * *

(2)(i) From June 1 through November 30 foreign vessels fishing longline gear are prohibited in the area defined by the following coordinates in the order listed (see Figure 1, Area II):

Coordinate	Latitude	Longitude
1	Shore at 44°22' N.	67°52' W.
2	Shore at 44°11'12" N.	67°16'46" W.
3	Shore at 42°53'14" N.	67°44'35" W.
4	Shore at 42°31'08" N.	67°28'05" W.
5	Shore at 40°55'00" N.	66°04'30" W.
6	Shore at 40°25' N.	66°57' W.
7	Shore at 40°00' N.	67°39'30" W.
8	Shore at 39°32' N.	70°52'30" W.
9	Shore at 37°54' N.	73°05' W.
10	Shore at 34°50' N.	73°34' W.
	Shore at 34°50' N.	

Shore at 34°50' N.

(ii) From June 1 through September 30 foreign vessels fishing longline gear are prohibited in the area defined by the following coordinates in the order listed (see Figure 1, Area I):

Coordinate	Latitude	Longitude
	Shore at 34°50' N.	
10	Shore at 34°50' N.	73°34' W.
11	Shore at 32°35' N.	76°40' W.
12	Shore at 30°21'30" N.	79°20' W.
13	Shore at 28°17'10" N.	78°39' W.
14	That area of FCZ east of point 23°48' N.	83°00' W.

(3) *Gulf of Mexico.* [Reserved]

(4) Fishing with pelagic longlines is restricted to the hours 0500–1800, local time, in an area during the seasonal closure for that area as specified at 50 CFR 630.21.

* * * * *

(g) *Swordfish incidental catch.* The quota for the incidental catch of swordfish is:

(1) *Longlines.* One and one-half percent of the previous calendar year's domestic harvest or 1,136 swordfish in the Atlantic and Caribbean, and 400 in the Gulf of Mexico, whichever is the lesser amount.

(2) *Squid trawl fishery.* An annual incidental catch not to exceed 0.06 swordfish per metric ton of a squid TALF for foreign vessels fishing under a GIFA.

(3) *Closure.* The Secretary, by publication of a notice in the **Federal Register**, will close the longline or squid trawl foreign fishery to fishing in the FCZ when the quota for that gear under paragraphs (2) and (3) has been reached or is projected to be reached.

PART 630—ATLANTIC SWORDFISH FISHERY

Subpart A—General Provisions

Sec.

630.1 Purpose and scope.
630.2 Defintions.
630.3 Relation to other laws.
630.4 Vessel permits.
630.5 Reporting requirements.
630.6 Vessel identification.
630.7 Prohibitions.
630.8 Facilitation of enforcement.
630.9 Penalties.

Subpart B—Management Measures

630.20 Fishing year.
630.21 Seasonal closures.
630.22 Harvest limitations.
630.23 Gear limitations.
630.24 Quota.
630.25 Import restrictions.
630.26 Specifically authorized activities.

Authority: 16 U.S.C. 1801 *et seq.*

Subpart A—General Provisions

§ 630.1 Purpose and scope.

(a) The purpose of this part is to implement the Fishery Management Plan for the Atlantic Swordfish Fishery prepared by the South Atlantic, New England, Mid-Atlantic, Gulf of Mexico, and Caribbean Fishery Management Councils under the Magnuson Act.

(b) This part regulates fishing for swordfish by persons fishing on vessels of the United States shoreward of the outer boundary of the fishery conservation zone (FCZ) in the Atlantic, Gulf of Mexico, and Caribbean.

(c) Regulations governing fishing by vessels other than vessels of the United States are published at 50 CFR Part 611, Subpart A and §§ 611.60 and 611.61.

§ 630.2 Definitions.

In addition to the definitions in the Magnuson Act, and unless the context requires otherwise, the terms used in this part have the following meaning:

Authorized officer means:

(a) Any commissioned, warrant, or petty office of the U.S. Coast Guard;

(b) Any special agent of the National Marine Fisheries Service;

(c) Any officer designated by the head of any Federal or State agency which has entered into an agreement with the Secretary of Commerce and the Commandant of the U.S. Coast Guard to enforce the provisions of the Magnuson Act; or

(d) Any Coast Guard personnel accompanying and acting under the direction of any person described in paragraph (a) of this definition.

Carcass means a fish that has been gutted and the head and fins have been removed (dressed).

Center Director means the Center Director, Southeast Fisheries Center, National Marine Fisheries Service, 75 Virginia Beach Drive, Miami, Florida 33149; Telephone (305)–361–5761, or a designee.

Commercial fisherman means a person who sells, trades, or barters any part of his or her catch of fish.

Councils means the following Regional Fishery Management Councils:

(a) South Atlantic Fishery Management Council, Southpark Building, Suite 306, 1 Southpark Circle, Charleston, South Carolina 29407–4699-telephone, 803–571–4366;

(b) New England Fishery Management Council, Suntaug Office Park, 5 Broadway, Saugus, Massachusetts 01906;

(c) Mid-Atlantic Fishery Management Council, Federal Building, Room 2115, North and New Streets, Dover, Delaware 19901;

(d) Caribbean Fishery Management Council, Suite 1108 Banco de Ponce Building, Hato Rey, Puerto Rico 00918; and

(e) Gulf of Mexico Fishery Management Council, Lincoln Center, Suite 881, 5401 West Kennedy Boulevard, Tampa, Florida 33609.

Dressed weight carcass weight) means the weight of a carcass after the fish is gutted and the head and fins are removed.

Fish in this plan refers to the swordfish, *Xiphias gladius*.

Fishery conservation zone (FCZ) means that area adjacent to the United States which, except where modified to accommodate international boundaries, encompasses all waters from the seaward boundary of each of the coastal States to a line each point of which is 200 nautical miles from the baseline from which the territorial sea of the United States is measured.

Fishing means any activity, other than scientific research conducted by a scientific research vessel, which involves

(a) The catching, taking, or harvesting of fish;

(b) The attempted catching, taking, or harvesting of fish;

(c) Any other activity which can reasonably be expected to result in the catching, taking, or harvesting of fish; or

(d) Any operations at sea in support of, or in preparation for, any activity described in paragraphs (a), (b), or (c) of this definition.

Fishing vessel means any vessel, boat, ship, or other craft which is used for, equipped to be used for, or of a type which is normally used for

(a) Fishing; or

(b) Aiding or assisting one or more vessels at sea in the performance of any activity relating to fishing, including, but not limited to, preparation, supply, storage, refrigeration, transportation, or processing.

Gangion means one of the short lengths of line that bear hooks and are attached at regular intervals to the ground line of a setline (longline). (Synonymous with leader.)

Gill net or *drift entanglement net* means a flat net suspended vertically in the water having meshes that entangle the head or other body parts of fish that attempt to pass through the net.

Handline gear means a fishing line set and pulled by hand that remains attached to the boat during fishing.

High flyer means a vertical pole that projects above the water attached to a longline that serves to mark its location.

Magnuson Act means the Magnuson Fishery Conservation and Management Act, as amended (16 U.S.C. 1801 *et seq.*).

NMFS means the National Marine Fisheries Service.

Official number means the official documentation number issued by the U.S. Coast Guard or the registration number issued by a State or the U.S. Coast Guard for undocumented vessels.

Operator, with respect to any vessel, means the master or other individual on board and in charge of that vessel.

Owner, with respect to any vessel, means:

(a) Any person who owns that vessel in whole or in part;

(b) Any charterer of the vessel, whether bareboat, time, or voyage;

(c) Any person who acts in the capacity of a charterer, including, but not limited to, parties to a management agreement, operating agreement, or other similar arrangement that bestows control over the destination, function, or operation of the vessel; or

(d) Any agent designated as such by any person described in paragraphs (a), (b), or (c) of this definition.

Pelagic longline means a type of fishing gear consisting of a length of line suspended horizontally in the water column above the bottom from lines attached to surface floats and to which gangions and hooks are attached.

Person means any individual (whether or not a citizen or national of the United States), corporation, partnership, association, or other entity (whether or not organized or existing under the laws of any State), and any Federal, State, local, or foreign government or any entity of any such government.

Radio buoy means a buoy attached to a longline which transmits a radio signal for purposes of marking its location.

Regional Director means the Director, Southeast Region, NMFS, Duval Building, 9450 Koger Boulevard, St. Petersburg, Florida 33702; telephone, 813–893–3141, or a designee.

Rod and reel fisherman means any individual using a handheld fishing rod with a manually or electrically operated reel attached.

Secretary means the Secretary of Commerce or a designee.

Swordfish means a fish of the species *Xiphias gladius*.

Technician means any individual placed aboard a swordfish vessel by the Center Director or his designee to collect scientific and statistical information on catches and fishing practices.

U.S. fish processors means facilities located within the United States for, and vessels of the United States, used for or equipped for, the processing or distribution of fish for commercial use or consumption.

U.S.-harvested fish means fish caught, taken, or harvested by vessels of the United States within any foreign or domestic fishery regulated under the Magnuson Act.

Variable season closure (VSC) means the annual periods of closure for swordfish fishing in the five management areas as defined at § 630.21(a).

Vessel of the United States means

(a) Any vessel documented under the laws of the United States;

(b) Any vessel numbered in accordance with the Federal Boat Safety Act of 1971 (46 U.S.C. 1400 *et seq.)* and measuring less than five net tons; or

(c) Any vessel numbered under the Federal Boat Safety Act of 1971 (46 U.S.C. 1400 *et seq.)* and used exclusively for pleasure.

Western North Atlantic swordfish stock means those swordfish in Fishery and Agricultural Organization statistical reporting areas 21 and 31. This area is bounded on the west by the North, Central, and South American land masses and on the east by a line running from the eastern coast of South America at 5°00' N. latitude out of 40°00' W. longitude, north to 36°00' N. latitude, west to 42°00' W. longitude, north to 59°00' N. latitude, west to 44°00' W. longitude, and continuing north to Greenland.

Whole fish means a fish that is not gutted and the head and fins are intact.

§ 630.3 Relation to other laws.

Persons affected by these regulations should be aware that other Federal and State statutes and regulations may apply to their activities. Certain responsibilities relating to enforcement and data collection may be performed by authorized State personnel under a cooperative agreement entered into by the State, the U.S. Coast Guard, and the Secretary.

§ 630.4 Vessel permits.

(a) *General.* Effective January 1, 1986,

(1) A vessel of the United States fishing for, possessing, retaining, or landing swordfish for sale, trade, or barter, or any commercial fishing vessel of the United States with a bycatch of swordfish, whether or not retained for sale, trade, or barter, operating in the Atlantic, Gulf of Mexico, or Caribbean FCZ must have a permit obtained from the Southeast Regional Director required by this part aboard the vessel at all times. Vessels fishing rod and reel gear are exempt except as specified in paragraph (a)(2).

(2) An owner or operator of a U.S. vessel that retains swordfish caught from the Mid-Atlantic region is required to obtain a permit and have the permit aboard at all times.

(b) *Application.* An application for a fishing vessel permit under this section will be submitted by the vessel owner or operator on an appropriate form which may be obtained from the Regional Director. The application must be submitted to the Regional Director and must contain the following information:

(1) Owner's name, mailing address, and telephone number;

(2) Vessel name, net tons, and length;

(3) Home port;

(4) State registration or Coast Guard documentation number;

(5) Target species;

(6) Gear type(s);

(7) Average trip length (in days);

(8) Monthly distribution of fishing by area (e.g., Gulf of Mexico); and

(9) Whether the vessel can accommodate a technician aboard the vessel.

(c) *Issuance.* (1) Upon receipt of a completed application, the Regional Director will issue a permit within 30 days.

(2) Upon receipt of an incomplete or improperly executed application, the Regional Director will notify the applicant of the deficiency in the application. If the applicant fails to correct the deficiency within 30 days following date of notification, the application will be considered abandoned.

(d) *Expiration.* A permit expires on December 31 of each year.

(e) *Duration.* A permit is valid until it expires or is revoked, suspended, or modified under Subpart D of 15 CFR 904.

(f) *Alteration.* Any permit which has been altered, erased, or mutilated is invalid.

(g) *Replacement.* Replacement permits may be issued. An application for a replacement permit will not be considered a new application.

(h) *Transfer.* Permits issued under this part are not transferable or assignable. A permit is valid only for the vessel and vessel owner for which it is issued.

(i) *Display.* Any permit issued under this part must be carried aboard the fishing vessel at all times. The permit must be prominently displayed in the pilot house or offered for inspection upon request of any authorized officer.

(j) *Sanctions.* Subpart D of 15 CFR Part 904 governs the imposition of sanctions against a permit issued under this part. As specified in Subpart D, a permit may be revoked, modified, or suspended if the vessel for which the permit is issued is used in the commission of an offense prohibited by the Magnuson Act or by this part; or if a civil penalty or criminal penalty imposed under the Magnuson Act has not been paid.

(k) *Fees.* No fee is required for any permit under this part.

(l) *Change in application information.* Any change in the information specified in paragraph (b) of this section, such as the vessel owner or gear type, must be reported to the Regional Director within 15 days of the change. If there is a change in vessel owner the vessel may not fish for swordfish until a new permit has been issued.

§ 630.5 Reporting requirements.

(a) The owner or operator of a vessel of the United States who has a permit issued under § 630.4 to fish for or land swordfish with gear other than rod and reel in the Atlantic, Gulf of Mexico, and Caribbean, and is selected by the Center Director must

(1) Advise the Center Director or his designee by telephone 10 days in advance of each trip of the following:

(i) Departure information (port, dock, date, and time), and

(ii) Expected landing information (port, dock, and date).

(2) Accommodate a NMFS techician aboard;

(3) Provide for embarkment and disembarkment of the technician as determined by the Center Director or his designee; and

(4) Make available swordfish that are harvested to the technician for the collection of the following information and parts:

(i) Length,

(ii) Sex, and

(iii) Anal and dorsal fins and heads.

(b) Owners or operators of vessels of the United States who have been issued a permit under § 630.4 to fish for swordfish in the Caribbean and land swordfish in Puerto Rico or the U.S. Virgin Islands must report their catch to the Center Director by individual carcass weight by providing copies of their weigh-out sheets for all swordfish landed.

(c) At least twenty percent of all swordfish fishermen (both commercial and recreational) retaining swordfish caught from the Mid-Atlantic region must provide data requested by questionnaire.

(d) Dealers must make their landing records for harpoon-harvested swordfish available to the Center Director or his designee during the period in which the quota under § 630.24 is in effect.

§ 630.6 Vessel identification.

(a) *Official number.* A vessel of the United States engaged in the

commercial swordfish fishery shoreward of the seaward boundary of the FCZ in the Atlantic Ocean, Gulf of Mexico or Caribbean Sea must

(1) Display its official number on the port and starboard sides of the deckhouse or hull and on an appropriate weather deck so as to be clearly visible from enforcement vessels and aircraft. The official number is the documentation number issued by the Coast Guard for documented vessels, or the registration number issued by a State or the Coast Guard for undocumented vessels.

(2) The official number must be in block arabic numerals in contrasting color to the background.

(3) The official number must be at least 18 inches in height for fishing vessels over 65 feet in length and at least 10 inches in height for all other vessels.

(4) The official number must be permanently affixed to or painted on the vessel.

(b) *Duties of operator.* The operator of each fishing vessel must

(1) Keep the official number clearly legible and in good repair, and

(2) Ensure that no part of the fishing vessel, its rigging, its fishing gear, or anything carried aboard obstructs the view of the official number from any enforcement vessel or aircraft.

§ 630.7 Prohibitions

(a) It is unlawful for any person to do any of the following:

(1) Fish for, catch, possess, retain, or land swordfish using gear other than rod and reel without a valid permit required under § 630.4 aboard the vessel or retain swordfish caught from the Mid-Atlantic area without a permit required by § 630.4(a)(2);

(2) Purchase, sell, barter, or trade any swordfish taken by a vessel that does not have a valid permit required under § 630.4;

(3) Refuse to accept aboard and make appropriate accommodations for a technician as specified in § 630.5 (a);

(4) Falsify or fail to report information required to be submitted or reported as specified in § 630.5;

(5) Falsify or fail to affix and maintain vessel markings as required by § 630.6;

(6) Fish for, possess at sea shoreward of the outer boundary of the FCZ, or land swordfish in closed areas specified in § 630.21(a), except as provided in § 630.21(b);

(7) Land swordfish harvested in the commercial fishery except as specified under § 630.22;

(8) Fish in closed areas with pelagic longlines at times other than as specified in § 630.23(a);

(9) Possess swordfish in a closed area during a seasonal closure specified in § 630.21(a) aboard a vessel having gear other than harpoons, rod and reel, or [in the Caribbean area only] handlines capable of taking swordfish;

(10) Fish for, catch, or retain swordfish in excess of the closure as specified in § 630.24(b);

(11) Import swordfish from the Western North Atlantic Swordfish stock during a closure in any area except as specified in § 630.25;

(12) Possess, have custody or control of, ship, transport, offer for sale, sell, purchase, import, land, or export any fish taken or retained in violation of the Magnuson Act, this part, or any other regulation under the Magnuson Act;

(13) Fail to comply immediately with enforcement and boarding procedures specified in § 630.8;

(14) Refuse to permit an authorized officer to board a fishing vessel subject to such person's control for purposes of conducting any search or inspection in connection with the enforcement of the Magnuson Act, this part, or any other regulation or permit issued under the Management Act;

(15) Interfere with, obstruct, delay, or prevent by any means a lawful investigation or search in the process of enforcing this part;

(16) Interfere with, obstruct, delay, or prevent in any manner the seizure of illegally taken swordfish or the disposition of such swordfish through the sale of the swordfish;

(17) Forcibly assault, resist, oppose, impede, intimidate, threaten, or interfere with any authorized officer in the conduct of any search or inspection described in paragraph (a)(14) of this section;

(18) Resist a lawful arrest for any act prohibited by this part;

(19) Interfere with, delay, or prevent, by any means, the apprehension or arrest of another person, knowing that such other person has committed any act prohibited by this part; or

(20) Transfer directly or indirectly, or attempt to so transfer, any U.S.-harvested swordfish to any foreign fishing vessel, while such vessel is in the FCZ, unless the foreign fishing vessel has been issued a permit under section 204 of the Magnuson Act which authorizes the receipt by such vessel of U.S.-harvested swordfish.

(b) It is unlawful to violate any other provision of this part, the Magnuson Act, or any regulation or permit issued under the Magnuson Act.

§ 630.8 Facilitation of enforcement.

(a) *General.* The operators or any other person aboard any fishing vessel subject to this part must immediately comply with instructions and signals issued by an authorized officer to stop the vessel and with instructions to facilitate safe boarding and inspection of the vessel, its gear, equipment, fishing record (where applicable), and catch for purposes of enforcing the Magnuson Act and this part.

(b) *Communications.* (1) Upon being approached by a U.S. Coast Guard vessel or aircraft, or other vessel or aircraft with an authorized officer aboard, the operator of a fishing vessel must be alert for communications conveying enforcement instructions.

(2) If the size of the vessel and the wind, sea, and visibility conditions allow, loudhailer is the preferred method for communicating between vessels. If use of a loudhailer is not practicable, and for communications with an aircraft, VHF-FM or high frequency radiotelephone will be employed. Hand signs, placards, or voice may be employed by an authorized officer and message blocks may be dropped from an aircraft.

(3) If other communications are not practicable, visual signals may be transmitted by flashing light directed at the vessel signaled. Coast Guard units will normally use the flashing light signal "L" as the signal to stop instantly.

(4) Failure of a vessel's operator to stop his vessel when directed to do so by an authorized officer using loudhailer, radiotelephone, flashing light signal, or other means constitutes *prima facie* evidence of the offense of refusal to allow an authorized officer to board.

(5) The operator of a vessel who does not understand a signal from an enforcement unit and who is unable to obtain clarification by loudhailer or radiotelephone must consider the signal to be a command to stop the vessel instantly.

(c) *Boarding.* The operator of a vessel directed to stop must

(1) Guard Channel 16, VHF-FM if so equipped;

(2) Stop immediately and lay to or maneuver in such a way as to allow the authorized officer and his party to come aboard;

(3) Except for those vessels with a freeboard of four feet or less, provide a safe ladder, if needed, for the authorized officer and his party to come abord;

(4) When necessary to facilitate the boarding or when requested by an authorized officer provide a manrope or safety line, and illunination for the ladder, and

(5) Take such other actions as necessary to facilitate boarding and to

ensure the safety of the authorized officer and the boarding party.

(d) *Signals.* The following signals, extracted from the International Code of Signals, may be sent by flashing light by an enforcement unit when conditions do not allow communications by loudhailer or radiotelephone. Knowledge of these signals by vessel operators is not required. However, knowledge of these signals and appropriate action by a vessel operator may preclude the necessity of sending the signal "L" and the necesssity for the vessel to stop instantly.

(1) "AA" (.-, .-)[1] [2] repeated is the call to an unknown station. The operator of the signaled vessel should respond by identifying the vessel by radiotelephone or by illuminating the vessel's identification.

(2) "RY-CY" (.-., -.--, -.-., -.--) means "you should proceed at slow speed, a boat is coming to you." This signal is normally employed when conditions allow an enforcement boarding without the necessity of the vessel being boarded coming to a complete stop, or, in some cases, without retrieval of fishing gear which may be in the water.

(3) "SQ3" (...., --.-, ...--) means "you should stop or heave to; I am going to board you."

(4) "L" (.-..) means "you should stop your vessel instantly."

§ 630.9 Penalties.

Any persons or fishing vessel found to be in violation of this part, the Magnuson Act, or any other regulation issued udner the Magnuson Act is subject to the civil and criminal penalty provisions of the Magnuson Act, and to 15 CFR Part 904 (Civil Procedures), and other applicable law.

Subpart B—Management Measures

§ 630.20 Fishing year.

The fishing year is January 1, through December 31.

§ 630.21 Seasonal closures.

(a) *General.* Except as allowed by paragraph (b) of this section, in closed areas (shoreward of the seaward boundary of the FCZ) no person may fish for, possess at sea, or land swordfish during the following variable seasonable closures (VSC):

(1) New England and Mid-Atlantic area from the United States-Canada border to Cape Hatteras, North Carolina 35°15' N. latitude)—November 7 through November 30;

(2) South Atlantic area from Cape Hatteras, North Carolina (35°15' N. latitude) south to the Georgia-Florida border (30°42' N. latitude)—October 15 through November 30;

(3) Florida East Coast area from the Georgia-Florida border (30°42' N. latitude) south and then west to a line that begins at the intersection of the outer boundary of the FCZ and 83°00' W. longitude, proceeds north to 24°35' N. latitude, east to Marquesas Key, then through the Florida Keys and ends at the mainland—November 1 through December 30;

(4) Gulf of Mexico area from a line that begins at the intersection of the outer boundary of the FCZ and 83°00' W. longitude, proceeds north to 24°35' N. latitude, east to Marquesas Key, then through the Florida Keys and ends at the mainland west to the Texas-Mexico border—November 1 through December 7; and

(5) Caribbean area shoreward of the outer boundary of the FCZ adjacent to Puerto Rico and the U.S. Virgin Islands—November 1 through December 30.

(b) *Exceptions.* Paragraph (a) of this section does not apply to the following:

(1) Swordfish greater than 125 pounds dressed weight that were harvested by harpoon if the closure occurs between June and October. Fish must remain whole or as carcasses until landed;

(2) Swordfish harvested by rod and reel that are not traded, bartered, or sold; or

(3) Swordfish harvested with handline gear in the Caribbean area. A maximum of one swordfish per trip is allowed and may be sold in the Caribbean.

(c) The VSC will be reviewed annually to determine the need for adjustment to respond to new stock assessment data, to specific fishery practices, and to correct size composition of catch by month. The following procedures will be utilized:

(1) A Committee Subgroup (Subgroup) consisting of the chairmen from the five Councils' swordfish committees will be organized.

(2) A working panel (Panel) will be organized to advise the Subgroup.

(3) Data will be collected and compiled by calendar year, and provided to the Panel on or about February 1 of each year. On or about March 15 of each year, the Panel will prepare a report to the Subgroup including but not limited to the following:

(i) Update of the VSC calendar;

(ii) Recommended modifications of the calendar;

(iii) Biological status of the stock including recommendations for future stock assessment;

(iv) Economic evaluation of the fishery; and

(v) Recommended changes in data collection and analysis.

(4) The Subgroup will approve (by a vote of 4 of 5) those recommendations to be taken to the Inter-Council Committee and/or Councils.

(5) All changes to the FMP must be approved by all five Councils.

(6) On or about April 15 of each year the Councils will recommend to the Regional Director the modifications to the VSC calendar to be implemented. If the Regional Director, after receiving the recommended modifications from the Councils, concludes that such modifications are consistent with the objectives of the FMP, the Magnuson Act, or other applicable law, the Regional Director will recommend on or about May 1 of each year that the Secretary publish notice of any modifications to the VSC calendar in the **Federal Register.** The public may comment on the modifications for 15 days after the date of publication. After consideration of public comments, the Secretary may publish notice in the **Federal Register** of any changes in the modifications to the VSC calendar.

§ 630.22 Harvest limitations.

Swordfish harvested from the Western North Atlantic swordfish stocks in the commercial fishery must be landed in whole or dressed form.

§ 630.23 Gear limitations.

The following gear limitations apply within closed areas specified in § 630.21:

(a) Fishing with pelagic longlines and drift entanglement nets may be conducted only between 0500 and 1800 hours local time. Possession of swordfish is prohibited. Swordfish caught with longlines must not be removed from the water.

(b) All swordfish caught incidental to a directed fishery for other species must be released in such a manner as to ensure maximum probability of survival.

(c) Vessels landing or possessing swordfish cannot have aboard gear other than harpoons, rod and reel, or (in the Caribbean area only) handlines capable of harvesting swordfish. Such prohibited gear would include, but not be limited to, nets and longline gear including gangions, high flyers, and radio buoys. Longline reels are allowed aboard provided there are no gangions, high flyers, or radio buoys aboard.

[1] (.) means a short flash of light.
[2] (-) means a long flash of light.

§ 630.24 Quota.

(a) If the closures specified in § 630.21 for the New England and Mid-Atlantic areas occur at any time during June through October, the swordfish landings by domestic harpoon vessels cannot exceed the level determined by

(1) Computing, for each year of the 1974–1983 period, the harpoon landings during the time period comparable to that portion of the specified closure occurring during June through October; (2) eliminating the highest and lowest values derived from (1); and (3) averaging the remaining landings.

(b) The Secretary, by publication of a notice in the **Federal Register**, will close the harpoon fishery for swordfish in the New England and Mid-Atlantic areas when the quota established under paragraph (a) of this section has been harvested.

§ 630.25 Import restrictions.

(a) The importation of swordfish from the Western North Atlantic swordfish stock harvested in areas, other than U.S. waters, adjacent to the following areas (described in § 630.21) during the VSC closure is not allowed in the

(1) New England and Mid-Atlantic area during and for 10 days following the end of a closure of the area;

(2) South Atlantic area during and for 10 days following the end of a closure of the area;

(3) Florida East Coast area during and for 7 days following the end of a closure of the area;

(4) Gulf of Mexico area during and for 11 days followng the end of a closure of the area; and

(5) Caribbean area during and for 7 days following the end of a closure of the area.

(b) These import restrictions do not apply to swordfish that are accompanied by a certificate of eligibility from the country of origin indicating that such fish were (1) harvested by harpoon from the Western North Atlantic swordfish stocks and exceed 125 pounds dressed weight; or (2) harvested from other than the Western North Atlantic swordfish stocks.

(c) The importation of harpoon-harvested swordfish from the Western North Atlantic swordfish stocks into the New England and Mid-Atlantic areas described in § 630.24(a) has been reached.

§ 630.26 Specifically authorized activities.

The Secretary may authorize for the acquisition of information and data, activities which are otherwise prohibited by these regulations.

BILLING CODE 3510-22-M

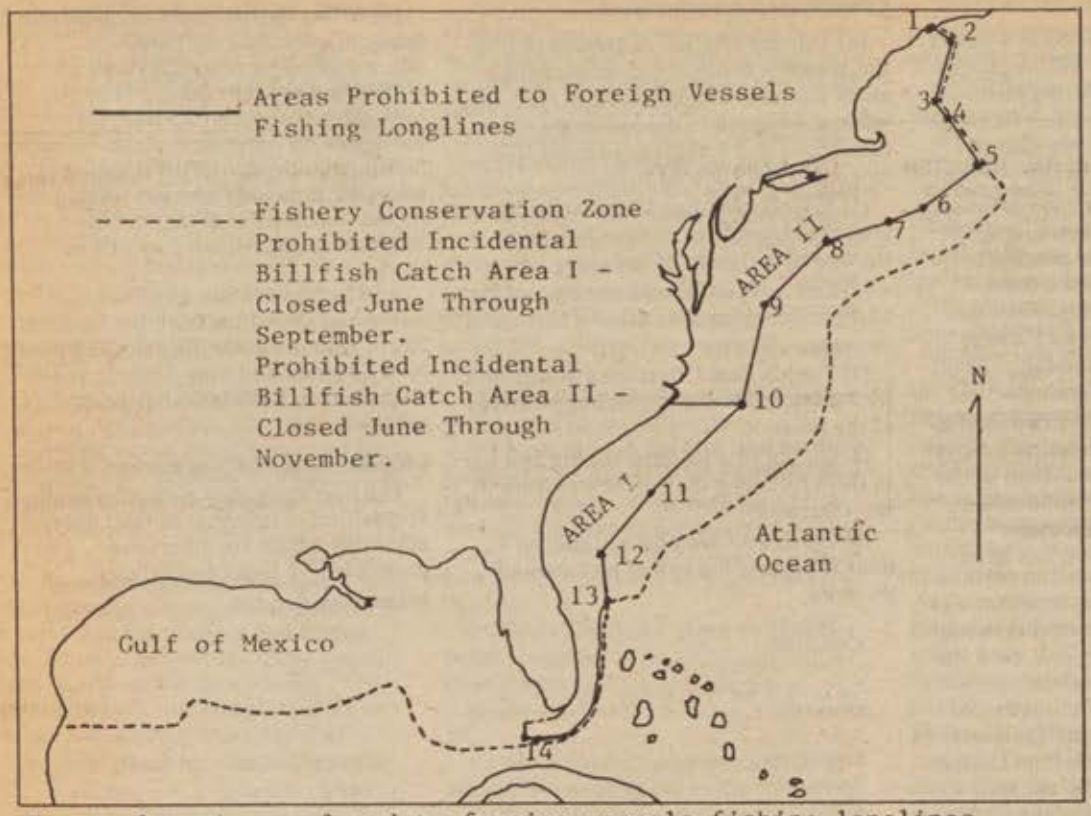


Figure 1 Areas closed to foreign vessels fishing longlines.

Coordinate	Latitude	Longitude
1	Shore at 44°22'N	67°52'W
2	44°11'12"N	67°16'46"W
3	42°53'14"N	67°44'35"W
4	42°31'08"N	67°28'05"W
5	40°55'00"N	66°09'00"W
6	40°25'N	66°57'W
7	40°00'N	67°39'30"W
8	39°32'N	70°52'30"W
9	37°54'N	73°05'W
10	34°50'N	73°34'W
	Shore at 34°50'N	
11	32°35'N	76°40'W
12	30°21'30"N	79°20'W
13	28°15'30"N	78°39'W
14	That area of FCZ East of point 23°48'N	83°00'W

[FR Doc. 85-13122 Filed 5-29-85; 8:45 am]
BILLING CODE 3510-22-C

Notices

Federal Register
Vol. 50, No. 105
Friday, May 31, 1985

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

ADMINISTRATIVE CONFERENCE OF THE UNITED STATES

Public Meeting of Assembly

Notice is hereby given, pursuant to the Federal Advisory Committee Act, Pub. L. No. 92–463, that the membership of the Administrative Conference of the United States, which makes recommendations to administrative agencies, to the President, Congress, and the Judicial Conference of the United States regarding the efficiency, adequacy, and fairness of the administrative procedures used by administrative agencies in carrying out their programs, will meet in Plenary Session on Thursday, June 13, 1985 at 12:45 p.m. and Friday, June 4, 1985 at 9:30 a.m. in Hearing Room "B", Interstate Commerce Commission, Twelfth Street and Constitution Avenue, NW., Washington, D.C.

The Conference will consider proposed recommendations on the following subjects:

1. Legislative preclusion of cost/benefit analysis.

2. Agency procedures for performing regulatory analysis of rules.

3. Coordination of public and private enforcement of environmental laws.

4. Legislation providing for the establishment of a corps of administrative law judges.

In addition, there will be a panel discussion of future Conference projects relating to tort claims against the Government.

Plenary sessions are open to the public. Further information on the meeting, including copies of proposed recommendations, may be obtained from the Office of the Chairman, 2120 L Street, NW., Suite 500, Washington, D.C. 20037, telephone (202) 254–7029.

Dated: May 28, 1985.
Richard K. Berg,
General Counsel.
[FR Doc. 85–13120 Filed 5–30–85; 8:45 am]
BILLING CODE 6110–01–M

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

Flue-Cured Tobacco Advisory Committee; Meeting

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463) announcement is made of the following Committee meeting:

Name: Flue-Cured Tobacco Advisory Committee.

Date: June 28, 1985.

Place: Tobacco Division, Agricultural Marketing Service, U.S. Department of Agriculture, Flue-Cured Tobacco Cooperative Stabilization Corporation Building, 1306 Annapolis Drive, Raleigh, North Carolina 27608.

Time: 1 p.m.

Purpose: To discuss marketing area opening dates and selling schedules for flue-cured tobacco to be sold in each marketing area for the 1985 season. Also, other matters as specified in 7 CFR Part 29 will be discussed.

The meeting is open to the public. Persons, other than members, who wish to address the Committee at the meeting should contact the Director, Tobacco Division, Agricultural Marketing Service, U.S. Department of Agriculture, 300 12th Street SW., Washington, D.C. 20250, (202) 447–2567. Written statements should be submitted prior to or at the meeting.

Dated: May 24, 1985.
William T. Manley,
Deputy Administrator Marketing Programs.
[FR Doc. 85–13037 Filed 5–30–85; 8:45 am]
BILLING CODE 3410–02–M

Forest Service

Black Hills National Forest Grazing Advisory Board; Meeting

The Black Hills National Forest Grazing Advisory Board will hold a summer meeting at 12 noon on June 19, 1985 at the Spearfish Ranger District located at 320 Ryan Road, Spearfish, South Dakota.

This meeting will include a field trip with topics for discussion being transitory range utilization and range analysis as related to Allotment Management Planning.

Dated: May 21, 1985.
Richard R. Kessler,
Acting Forest Supervisor.
[FR Doc. 85–12932 Filed 5–30–85; 8:45 am]
BILLING CODE 3410–11–M

DEPARTMENT OF COMMERCE

International Trade Administration

[A–428–005]

Antidumping; Consideration of Subsidies in Cost of Production Calculations

AGENCY: International Trade Administration/Import Administration, Department of Commerce.

ACTION: Notice of Request for Comments.

SUMMARY: The Department of Commerce is soliciting comments regarding whether to consider the effect of subsidies in cost of production and constructed value calculations for antidumping cases. Interested persons are invited to present written views regarding this issue.

DATE: Comments should be submitted by July 1, 1985.

ADDRESS: Written comments (at least 10 copies) should be addressed to Alan F. Holmer, Deputy Assistant Secretary for Import Administration, Room B–099, U.S. Department of Commerce, 14th and Constitution Avenue, NW., Washington, D.C. 20230.

SUPPLEMENTARY INFORMATION: In the context of a remand in the case of *Al Tech Specialty Steel Corp.* v. *United States* (Court of International Trade, No. 84–8–01192), the Department of Commerce ("the Department") is soliciting views on the issue of whether and to what extent it should include subsidies in cost of production and constructed value calculations for antidumping proceedings. The issue may arise in any case in which sales below cost of production are alleged, or in which constructed value is used to determine foreign market value. The resolution of this issue may have far-reaching economic and legal consequences affecting determinations of whether there are sales below cost of

production and calculations in constructing the value of the merchandise.

In making comparisions of U.S. price with foreign market value to determine whether merchandise is being sold in the United States at less than foreign market value, section 773(b) of the Tariff Act of 1930 ("the Act"), 19 U.S.C. 1677b(b), specifies that we disregard, in certain circumstances, home market or third country sales that are at less than cost of production. If a petitioner alleges that a producer is benefitting from a subsidy, we may need to decide whether to investigate such subsidization, or, if we have information on subsidization of the merchandise because of a countervailing duty proceeding, whether to use that information, in the context of an antidumping proceeding. To the extent that we include the value of a subsidy in the cost of the merchandise, the possibility that sales will be found to be below cost increases, thus increasing the number of sales to be disregarded.

Further, section 773(a)(2) of the Act directs that we use constructed value where there are insufficient home market or third country sales upon which to base a determination of foreign market value. 19 U.S.C. 1677b(a)(2). In general, in constructing a value, the law requires tha we determine that cost of materials and fabrication of a product, and amounts for general expenses, profits, containers, and packing. 19 U.S.C. 1677b(e). If it is alleged that any element used in constructing a value is being subsidized, we may need to decide whether we must investigate such subsidization in order to construct a value. If we have information on subsidization of the merchandise, either because of a countervailing duty proceeding or developed in the antidumping proceeding to determine whether there are sales at less than the cost of production, we may need to decide whether to use that information in constructing the value of the merchandise. To the extent that we include the value of a subsidy in constructing the value of the merchandise, we increase the likelihood that, and the extent to which, foreign market value will be found to exceed U.S. price.

A number of arguments have been advanced in support of the general proposition that the Department should include the value of subsidies provided to a producer in cost of production and constructed value calculations. Proponents argue that we should consider all actual costs of producing the merchandise involved, regardless of who bears the cost, on the theory that subsidies merely shift the burden of some costs from the producer to the foreign government, while the actual cost of producing the merchandise remains the same. Proponents argue that the law makes no reference to an individual producer's cost of production, but rather directs us to ascertain the actual costs of merchandise, not just what a particular producer pays, and that the failure to take account of subsidies understates the actual cost of production and constructed value. Proponents further argue that it would be unduly burdensome to require domestic industry to seek initiation of a separate countervailing duty case; in fact, proponents say, we may already have information on subsidies developed in a countervailing duty proceeding, and this information shoud not be ignored in the antidumping proceeding.

Opponents of the general proposition to included the value of subsidies in cost of production and constructed value calculations argue that we have no authority to consider subsidy issues in a dumping case, on the theory the antidumping law is aimed solely at pricing decisions of an individual producer, which decisions reflect only the costs of that producer. The law adequately provides for consideration of subsidy programs and their effect on U.S. markets under the countervailing duty law; only the countervailing duty law is intended to deal with absorption or assumption by a foreign government of costs of producing merchandise. Any accounting for subsidies may result in finding sales below cost of production where sales are not below the costs of the individual producer, a result not intended under the antidumping law. Opponents argue that any attempt to consider subsidies in the context of a dumping case would obliterate any distinction between antidumping and countervailing duty cases, would overstate costs of production and constructed value, and would constitute double counting in the increasingly frequent instances in which merchandise is subject to both an antidumping and a countervailing duty order. In a case in which there is no countervailing duty order, opponents argue that we do not have the resources tha would be required to consider subsidy issues; any such consideration would pose difficult, if not insurmountable, administrative difficulties in view of the statutory time limitations for antidumping determinations. Further, any consideration of subsidies would be unfair to foreign producers, as we would have to go outside an individual producer's records to determine costs of production. Even if we were able to develop the necessary cost of production figures to account for costs not borne by a producer, apponents argue that relief from such subsidy practices can and should be provided only under the contervailing duty laws.

We ask that those submitting comments address the basic issue of whether we should ever take subsidies into account in cost of production and construction value calculations, as well as a number of ancillary questions as to how, and under what circumstances, subsidies should be considered, including:

—Should we take subsidies into account only if there is a countervailing duty order in effect for the product (or at least a Department final affirmative determination, pending a final injury determination by the International Trade Commission)? If so, how can we adjust our calculations to avoid assessing both antidumping and countervailing duties by virtue of the same domestic (rather than export) subsidy. Or, should we take subsidies into account only if there is no countervailing duty order in effect for the product?

—Should we take account for only those subsidies that we find in company records?

—Do subsidies have the same value in both antidumping and countervailing duty proceedings?

—Should direct production subsidies be taken into account in making adjustments for differences in merchandise, under § 353.16 of the Commerce Regulations (19 CFR 353.16)?

—Should we include certain kinds of subsidies in the cost of production (e.g., direct subsidies on labor or raw materials) but not include other kinds of subsidies (e.g., equity infusions on terms inconsistent with commercial considerations)?

Persons submitting comments are invited to raise and suggest answers to other questions which may flow from this basic issue.

Alan F. Holmer,

Deputy Assistance Secretary for Import Administration.

May 21, 1985.

[FR Doc. 85-13023 Filed 5-30-85; 8:45 am]

BILLING CODE 3510-DS-M

Applications for Duty-Free Entry of Scientific Instruments; University of Colorado et al.

Pursuant to section 6(c) of the Educational, Scientific and Cultural Materials Importation Act of 1966 (Pub. L. 89–651; 80 Stat. 897; 15 CFR Part 301), we invite comments on the question of whether instruments of equivalent scientific value, for the purposes for which the instruments shown below are intended to be used, are being manufactured in the United States.

Comments must comply with § 301.5(a)(3) and (4) of the regulations and be filed within 20 days with the Statutory Import Programs Staff, U.S. Department of Commerce, Washington, D.C. 20230. Applications may be examined between 8:30 A.M. and 5:00 P.M. in Room 1523, U.S. Department of Commerce, 14th and Constitution Avenue, NW., Washington, D.C.

Docket number: 85–161. Applicant: University of Colorado, Joint Institute for Laboratory Astrophysics, Campus Box 440, Boulder, CO 80309. Instrument: FT–IR Spectrometer, Model IZM03. Manufacturer: Bomem, Inc., Canada. Intended Use: The instrument will be used to obtain high resolution infrared emission spectra in experiments to study chemical reaction dynamics and photofragmentation dynamics. The species to be studies are gaseous molecules and radicals such as CO_2, CO, HF, and CH_3. Application received by Commissioner of Customs: April 19, 1985.

Docket number: 85–162. Applicant: Yale University, 155 Whitney Avenue, New Haven, CT 06520. Instrument: UHR Mass Spectrometer, Model MM ZAB–SE. Manufacturer: VG Analytical Ltd., United Kingdom. Intended use: The instrument will be used to investigate organic, metallo-organics, bio-organic, and biopolymers which are encountered in a large, active, research-oriented medical school. Typical examples of the materials are synthetic chemotherapeutic agents and their metabolites, peptides, polysaccharides, nucleic acids and adducts they form on exposure to chemotherapeutic or xenobiotic agents. In addition, the instrument will be used for training students and researchers in the tools and techniques of mass spectrometry. Application received by Commissioner of Customs: April 19, 1985.

Docket number: 85–163. Applicant: University of California, Irvine, CA 92717. Instrument: Electron Microscope, Model EM 10CA. Manufacturer: Carl Zeiss, Inc., West Germany. Intended use: The instrument will be used to conduct research studies of the following:

(1) Comparative physiology and cell biology of ion transporting epithelia.

(2) Development and control of regeneration in neural tissues.

(3) Structure of chromosomes.

(4) Gene function and structure in *Drosophila* and in the disease organism *Trypanosoma cruzi*, and

(5) Structure of allomorphic DNA species occurring in phage.

Application received by Commissioner of Customs: April 22, 1985.

Docket number: 85–164. Applicant: Massachusetts Institute of Technology, Research Laboratory of Electronics, 77 Massachusetts Avenue, Cambridge, MA 02139 Instrument: NMR Magnet System, Model 360/89 and Accessories. Manufacturer: Oxford Instruments Limited, United Kingdom. Intended use: The instrument will be used to observe the cyclotron resonance of a single ion held indefinitely within the magnetic field by a Penning trap, which consists of a special configuration of electric fields. Educational purposes will consist of the development and preparation of Bachelor's Master's, and Doctoral theses and dissertations for degrees in physics and chemistry. Application received by Commissioner of Customs: April 23, 1985.

Docket number: 85–166. Applicant: U.S. Geological Survey, Central Region, Procurement and Contracts, MS 204B, Box 25046, Federal Center, Denver, CO 80225. Instrument: Mass Spectrometer, Series 215 with Accessories. Manufacturers: Mass Analyzer Products Limited, United Kingdom. Intended use: Studies of He, Ne, Ar, Kr, and Xe mineral and rocks. The experiments to be conducted are in geochronology using the K–Ar and ^{4}Ar–^{39}Ar methods to determine the ages of rocks and minerals and in isotopic tracer studies using variations in the ^{3}He–^{4}, He ^{20}Ne–^{22}Ne, ^{40}Ar–^{36}Ar, ^{129}Xe–^{132}Xe ratios and the concentrations of He, Ne, Ar, Kr, and Xe in mantle derived rocks and minerals and fumarolic and volcanic gases. Application received by Commissioner of Customs: April 23, 1985.

Docket number: 85–167. Applicant: University of Maryland, Institute for Physical Science and Technology, College Park, MD 20742. Instrument: Excimer Laser, Model EMG–150 ET. Manufacturer: Lambda Physik GmbH, West Germany. Intended use: The instrument will be used in novel photodissociation experiments which will characterize electronic structure and correlation dynamics basic to photophysical and photochemical processes of energy acquisition, transfer and disposal in atmospheric molecules. The instrument will also be used by a number of graduate students and postdoctoral fellows learning fundamental, state-of-the-art technology key to the application of lasers to chemical physics problems. Application received by Commissioner of Customs: April 23, 1985.

Docket number: 85–168. Applicant: University of California, San Diego, 3175 Miramar Road, Building 509, La Jolla, CA 92093. Instrument: Rotating Anode X-ray Generator, Model RU–200H. Manufacturer: Rigaku, Japan. Intended use: Conduct experiments to find the three-dimensional structure of proteins and enzymes and to understand how they work in a living cell. The article will also be used to train graduate students to become familiar with the technique of x-ray protein crystallography. Application received by Commissioner of Customs: April 24, 1985.

Docket number: 85–169. Applicant: University of Texas System Cancer Center, M.D. Anderson Hospital and Tumor Institute, 6723 Bertner Avenue, Houston, TX 77030. Instrument: Electron Microscope, Model JEM–1200 EX with accessories. Manufacturer: Joel Ltd., Japan. Intended use: Examination of normal and pathologic tissues obtained from human patients and experimental animals. Tissue culture cells derived from biopsy specimens will also be examined. The studies to be conducted will include:

(1) High resolution analysis of cells and tissues immunolabeled with markers such as immunogold or immunoferritin to determine the distribution of intracellular and extracellular antigens as receptors.

(2) Characterization of cellular organelles such as mitochondria and microfilaments of normal and tumor cells as these organelles are affected by physical and chemical carcinogens, drugs, and biological agents.

(3) Ultrastructural analysis of macrophage-tumor interaction in conjunction with interference microscopy, time lapse video-microscopy, scanning electron microscopy and image analysis.

(4) Quantitation of cytochemical reactions at the ultrastructual level contingent upon the addition of an energy dispersive analysis system.

(5) Screening liposomes prepared in the laboratory.

The instrument will also be used for training pre and post doctoral fellows requiring ultrastructural work in their research (on individual basis).

Application received by Commissioner of Customs: April 29, 1985.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials.)

Frank W. Creel,

Acting Director, Statutory Import Programs Staff.

[FR Doc. 85-13022 Filed 5-30-85; 8:45 am]

BILLING CODE 3510-DS-M

Export Trade Certificate of Review; Issuance

AGENCY: International Trade Administration, Commerce.

ACTION: Notice of Issuance of Export Trade Certificate of Review.

SUMMARY: The Department of Commerce has issued an export trade certificate of review to Comet Rice, Inc. This notice summarizes the conduct for which certification has been granted.

ADDRESS: The Department requests public comments on the certificate. Interested parties should submit their written comments, original and five (5) copies, to: Office of Export Trading Company Affairs, International Trade Administration, Department of Commerce, Room 5618, Washington, D.C. 20230.

Comments should refer to the certificate as "Export Trade Certificate of Review, application number 85-00005."

FOR FURTHER INFORMATION CONTACT: James V. Lacy, Director, Office of Export Trading Company Affairs, International Trade Administration, 202-377-5131. This not a toll-free number.

SUPPLEMENTARY INFORMATION: Title III of the Export Trading Company Act of 1982 ("the Act") (Pub. L. No. 97-290) authorizes the Secretary of Commerce to issue export trade certificates of review. The regulations implementing the Act are found at 15 CFR Part 325 (50 FR 1804, January 11, 1985).

The Office of Export Trading Company Affairs is issuing this notice pursuant to 15 CFR 325.5(b), which requires the Secretary of Commerce to publish in the **Federal Register** a summary of each certificate issued. Under section 305(a) of the Act and 15 CFR 325.11(a), any person aggrieved by the Secretary's determination may, within 30 days of the date of this notice, bring an action in any appropriate district court of the United States to set aside the determination on the ground that the determination is erroneous.

Description of Certified Conduct

Export Trade

(a) Rice, including wild rice, and rice products (rough rice, parboiled rice, milled rice, undermilled or unpolished rice, brown rice, coated rice, enriched rice, rice bran, rice polish, head rice, second head rice, brewers' rice, and flavored rice).

(b) Services (consulting; international market research; advertising; marketing; insurance; product research and design, exclusively for export; legal assistance; transportation including trade documentation and freight forwarding; communication and processing of foreign orders; warehousing; foreign exchange; financing; and taking title to goods) in connection with the export of rice and rice products.

Export Markets

The Export Markets include all parts of the world except the United States (the fifty states of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, American Samoa, Guam, the Commonwealth of the Northern Mariana Islands, and the Trust Territory of the Pacific Islands).

Export Trade activities and Methods of Operation

To engage in Export Trade in the Export Markets, Comet may:

(1) On a transaction-by-transaction basis, join with its member to bid for the sale of, and to sell, U.S. rice and rice products to the export Markets.

(2) For each bid or sale, negotiate and agree with its member on the terms of their participation in the bid or sale, including the amount of rice and rice products each will commit to the sale and the price to be bid, and in order to negotiate those terms, exchange:

(a) Information (other than information about the costs, production, capacity, inventories, domestic prices, domestic sales, domestic orders, terms of domestic marketing or sale, or U.S. business plans, strategies or methods of Comet or its member) that is already generally available to the trade or public;

(b) Information (such as selling strategies, prices, projected demand, and customary terms of sale) solely about the Export Markets; and

(c) Information on expenses specific to exporting to the Export Markets (such as ocean freight, inland freight to the terminal or port, terminal or port storage, wharfage and handling charges, insurance, agents' commissions, export sales documentation and service, and export sales financing).

(3) Negotiate with its member to provide or contract for the provision of the storage, shipping and delivery, and associated services needed for each sale made jointly by Comet and its member.

(4) Individually or jointly with its member, with respect to each bid, refuse to include in such bid any other supplier having rice and rice products for export.

For purposes of this certificate, "supplier" shall mean any producer (including farmers and farm cooperatives), miller, or broker of or any other entity that sells or supplies rice or rice products.

Member

Farmers' Rice Cooperative of West Sacramento, California is a "member" on this certificate within the meaning of § 325.2(l) of the Regulations.

A copy of each certificate is available for inspection and copying in the International Trade Administration's Freedom of Information Records Inspection Facility, Room 4102, U.S. Department of Commerce, 14th Street and Constitution Avenue, N.W., Washington, D.C. 20230.

Dated: May 24, 1985.

Douglas A. Riggs,

General Counsel.

[FR Doc. 85-13121 Filed 5-30-85; 8:45 am]

BILLING CODE 3510-DR-M

COMMITTEE FOR PURCHASE FROM THE BLIND AND OTHER SEVERELY HANDICAPPED

Forms Under Review by Office of Management and Budget

Correction

In FR Doc. 85-11982 beginning on page 20578 in the issue of Friday, May 17, 1985, make the following correction:

On page 20579, first column, third complete paragraph, second line from the bottom, "not" should read "now".

BILLING CODE 1505-01-M

Procurement List 1985; Proposed Additions

Correction

In FR Doc. 85-11396 appearing on page 19777 in the issue of Friday, May 10, 1985, make the following correction: In the first column, under "Class 1670", second line, "8169" should read "8196".

BILLING CODE 1505-01-M

DEPARTMENT OF DEFENSE

Office of the Secretary

Defense Science Board 1985 Summer Study Panel on Tactical Directed Energy Weapons; Rescheduled Meeting

ACTION: Change in Date of Advisory Committee Meeting.

SUMMARY: The meeting date for the Defense Science Board 1985 Summer Study Panel on Tactical Directed Energy Weapons scheduled for 25 June 1985 in the Pentagon, Arlington, Virginia as published in the **Federal Register** (Vol. 50, No. 82, Monday, April 29, 1985, FR Doc. 85–10269) has been changed to 25 and 26 June 1985. In all other respects the original notice remains unchanged.

Patricia H. Means,

OSD Federal Register Liaison Officer Department of Defense.

May 28, 1985.

[FR Doc. 85–13078 Filed 5–30–85; 8:45 am]

BILLING CODE 3810-01-M

Defense Science Board Task Force on Software; Open Meeting

ACTION: Notice of Advisory Committee Meeting.

SUMMARY: The Defense Science Board Task Force on Software will meet in open session on 24 June 1985 at the Pentagon, Washington, D.C.

The mission of the Defense Science Board is to advise the Secretary of Defense and the Under Secretary of Defense for Research and Engineering on scientific and technical matters as they affect the perceived needs of the Department of Defense. At the meeting on 24 June 1985 the Task Force will receive a briefing on the software development process used in the WWMCCS Information System.

Persons interested in attending should contact Major Susan Swift, Task Force Executive Secretary, Telephone: (202) 695–7181. Space is limited and will be awarded on a first come first served basis.

Patricia H. Means,

OSD Federal Register Liaison Officer Department of Defense.

May 28, 1985.

[FR Doc. 85–13079 Filed 5–30–85; 8:45 am]

BILLING CODE 3810-01-M

DOD Advisory Group on Electron Devices; Advisory Committee Meeting

SUMMARY: Working Group C (Mainly Opto Electronics) of the DoD Advisory Group on Electron Devices (AGED) announces a closed session meeting.

DATE: The meeting will be held at 9:00 a.m., Tuesday, 25 June 1985.

ADDRESS: The meeting will be held at Palisades Institute for Research Services, Inc. 2011 Crystal Drive, One Crystal Park, Suite 307, Arlington, Virginia 22202.

FOR FURTHER INFORMATION CONTACT: Gerald Weiss, AGED Secretariat, 201 Varick Street, New York, 10014.

SUPPLEMENTARY INFORMATION: The mission of the Advisory Group is to provide the Under Secretary of Defense for Research and Engineering, the Director, Defense Advanced Research Projects Agency and the Military Departments with technical advice on the conduct of economical and effective research and development programs in the area of electron devices.

The Working Group C meeting will be limited to review of research and develoment programs which the military propose to initiate with industry, universities or in their laboratories. This opto-electronic device area includes such programs as imaging devices, infrared detectors and lasers. The review will include classified program details throughout.

In accordance with Section 10(d) of Pub. L. No. 92–463, as amended, (5 U.S.C. App. II 10(d) (1982)), it has been determined that this Advisory Group meeting concerns matters listed in 5 U.S.C. 552b(c)(1) (1982), and that accordingly, this meeting will be closed to the public.

Patricia H. Means,

OSD Federal Register Liaison Officer Department of Defense.

May 28, 1985.

[FR Doc. 85–13080 Filed 5–30–85; 8:45 am

BILLING CODE 3810-01-M

Defense Logistics Agency

Public Information Collection Requirement Submitted to OMB for Review

SUMMARY: The Department of Defense has submitted to OMB for review the following proposal for the collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35). Each entry contains the following information: (1) Type of submission; (2) Title of Information Collection and Form Number if applicable; (3) Abstract statement of the need for and the uses to be made of the information collected; (4) Type of Respondent; (5) An estimate of the number of responses; (6) An estimate of the total number of hours needed to provide the information; (7) To whom comments regarding the information collection are to be forwarded; and (8) The point of contact from whom a copy of the information proposal may be obtained.

Revision

DoD Property Record (DD Form 1342)

The DoD Property Record (DD Form 1342) is required by the DoD Federal Acquisition Regulation Supplement for submission to the Defense Industrial Plant Equipment Center (DIPEC), a DLA Primary Level Field Activity, to report initial acquisition of industrial plant equipment (IPE), IPE in active or idle status and changes in status or transfers of IPE. Its function is to provide DIPEC the means to locate and identify capabilities of specific IPE, if needed, to produce critical items of Defense materiel.

Business Firms
Responses 6,140
Burden hours 12,280

ADDRESSES: Comments are to be forwarded to Mr. Edward Springer, Office of Management and Budget, Desk Officer, Room 3235, New Executive Office Building, Washington, DC 20503 and Mr. Daniel J. Vitiello, DoD Clearance Officer, WHS/DIOR, 1215 Jefferson Davis Highway, Suite 1204, Arlington, Virginia 22202–4302, telephone number (202) 746–0933.

FOR FURTHER INFORMATION CONTACT: A copy of the information collection proposal may be obtained from Glenn R. Kirby, OPI, Room 4A556, Cameron Station, Alexandria, Virginia 22304–6100, telephone (202) 274–6269.

Patricia H. Means,

OSD Federal Register Liaison Officer, Department of Defense.

May 28, 1985.

[FR Doc. 85–13082 Filed 5–30–85; 8:45 am]

BILLING CODE 3810-01-M

DEPARTMENT OF ENERGY

Bonneville Power Administration

Fish and Wildlife Consultation Procedures

AGENCY: Bonneville Power Administration (BPA), DOE.

ACTION: Notice of Final Procedures. *BPA File No:* FW–1.

SUMMARY: BPA has adopted final procedures for consultation in the exercise of BPA's fish and wildlife

responsibilities in the management and operation of Federal Columbia River Power System hydroelectric facilities. The Pacific Northwest Electric Power Planning and Conservation Act directs BPA to consult with Columbia River Basin fish and wildlife agencies, Indian tribes, and hydroelectric project operators in discharging these responsibilities. BPA published a notice of proposed procedures in the **Federal Register** on November 1, 1983 (48 FR 50392). This notice contains final procedures and an explanation of the procedures.

Responsible Offical: John R. Palensky, Director, Division of Fish and Wildlife, Office of Power and Resources Management, is the responsible official for the fish and wildlife consultation procedures.

FOR FURTHER INFORMATION CONTACT: Ms. Teresa M. Cunningham, Public Involvement Office, at the following phone number: 503-230-3478. Oregon callers may use 800-452-8429; callers in California, Idaho, Montana, Nevada, Utah, Washington, and Wyoming may use 800-547-6048. Information may also be obtained from:

Mr. George Gwinnutt, Lower Columbia Area Manager, Suite 288, 1500 Plaza Building, 1500 NE. Irving Street, Portland, Oregon 97232, 503-230-4551.

Mr. Ladd Sutton, Eugene District Manager, Room 206, 211 East Seventh Avenue, Eugene, Oregon 97401, 503-687-6952.

Mr. Wayne Lee, Upper Columbia Area Manager, Room 561, West 920 Riverside Avenue, Spokane, Washington 99201, 509-456-2518.

Mr. George E. Eskridge, Montana District Manager, 800 Kensington, Missoula, Montana 59801, 406-329-3060.

Mr. Ronald K. Rodewald, Wenatchee District Manager, P.O. Box 741, Wenatchee, Washington 98801, 509-662-4377, extension 379.

Mr. Reginald Kaiser, Puget Sound Area Manager, 415 First Avenue North, Room 250, Seattle, Washington 98109, 206-442-4130.

Mr. Thomas Wagenhoffer, Snake River Area Manager, West 101 Poplar, Walla Walla, Washington 99362, 509-522-6226, extension 701.

Mr. Robert N. Laffel, Idaho Falls District Manager, 531 Lomax Street, Idaho Falls, Idaho 83401, 208-523-2706.

Mr. Frederic D. Rettenmund, Boise District Manager, Owyhee Plaza, Suite 245, 1109 Main Street, Boise, Idaho 83707, 208-334-9138.

SUPPLEMENTARY INFORMATION:

Table of Contents

I. Background
II. Explanation of Procedures
A. Introduction
B. Section by Section Explanation
III. Final Procedures

I. Background

BPA published a Notice of Intent to Adopt Procedures and Notice of Proposed Procedures in the **Federal Register** on November 1, 1983 (48 FR 50392), and conducted public information/public comment forums on the procedures on November 18, 1983, in Spokane, Washington, and on November 19, 1983, in Portland, Oregon. BPA received comment letters from six utilities and organizations, and oral comments from five agencies, utilities, and organizations at the public information/public comment forums. These comments were considered by BPA and the procedures were revised. The Staff Evaluation of the Record/Record of Decision lists the issues raised by the comment letters and forums, summarizes and evaluates the comments, and describes the disposition of each issue. Copies of the staff Evaluation of the Record/Record of Decision may be obtained by contacting BPA's Public Involvement Office at the address or phone numbers listed above.

II. Explanation of Procedures

A. Introduction

In addition to introducing many changes in electric power planning and development, the Pacific Northwest Electric Power Planning and Conservation Act (Pub. L. 96-501, 94 Stat. 2697 (16 U.S.C. 839, et seq.)) (the Pacific Northwest Power Act or Act), created new fish and wildlife responsibilities within the region. It authorized the Northwest Power Planning Council to adopt the Columbia River Basin Fish and Wildlife Program to "protect, mitigate, and enhance" fish and wildlife affected by the development and operation of hydroelectric projects on the Columbia River and its tributaries. The Council adopted the program on November 15, 1982. The Act also further defined the fish and wildlife responsibilities of the Federal agencies which manage and operate Federal Columbia River Power System (FCRPS) hydroelectric facilities. These agencies include the U.S. Army Corps of Engineers, U.S. Bureau of Reclamation, and BPA. The Act directed these agencies to "protect, mitigate, and enhance" affected fish and wildlife in a manner that provides "equitable treatment" with other system purposes, and to do so "taking into account at each relevant stage of decisionmaking processes to the fullest extent practicable" the Fish and Wildlife Program. For example, BPA and the other Federal agencies are implementing this responsibility by providing for enhanced river flows to aid spring salmon and steelhead migration and other measures called for in the Fish and Wildlife Program.

In exercising these fish and wildlife responsibilities, the Act directs the affected Federal agencies to consult with "the Secretary of the Interior, the Administrator of the National Marine Fisheries Service, and the State fish and wildlife agencies of the region, appropriate Indian tribes, and affected project operators." (16 U.S.C. 839b(h)(11)(B).) Since enactment of the Act, BPA has met this consultation duty by convening meetings to which all consultation parties have been invited. BPA has described proposed policies and actions at these meetings and solicited comments. This procedure has been unsatisfactory. Consultation parties have had to travel from elsewhere in the region to learn whether a proposed action warrants their concern. At times, lengthy meetings have yielded few comments or recommendations. The consultation procedures published in this notice replace this approach. The procedures are intended to expedite notice to consultation parties of issues for consultation and to permit tailoring how consultations are conducted to the significance and complexity of a proposed policy or action. BPA also intends by these procedures to permit consultation parties to select the means by which they communicate their views to BPA and to affirmatively involve consultation parties in BPA decisionmaking.

In addition to defining the fish and wildlife responsibilities of BPA and the other Federal agencies that manage and operate FCRPS hydroelectric facilities, the Act assigns two related fish and wildlife responsibilities to BPA. It directs BPA to fund and carry out measures to "protect, mitigate, and enhance" fish and wildlife affected by hydroelectric projects on the Columbia River and its tributaries (16 U.S.C. 839b(h)(10)). It also requires that BPA provide for fish and wildlife protection, mitigation, and enhancement in the acquisition of electric power generation to meet regional electric power demand (16 U.S.C. 839d). However, under the terms of the Act, the consultation duties applicable to the management and operation of FCRPS hydroelectric facilities, for which the procedures published here provide, do not apply to these additional fish and wildlife responsibilities.

Some issues for which BPA will use the consultation procedures will also be major regional power policies. In these cases, BPA's "Procedure for Public Participation in Major Regional Power Policy Formulation" (46 FR 2636, May 12, 1981) will apply in addition to the consultation procedures. As provided in sub-Sec. 5(b) of the consultation procedures, BPA will coordinate the two procedures.

B. Section by Section Explanation

Sec. 1, Purpose and Scope

This section identifies the BPA fish and wildlife responsibilities to which the consultation procedures apply. For clarity, the section also lists four areas of BPA responsibility to which the procedures do not apply:

1. BPA is developing policies and procedures for compensating costs and power losses at non-Federal electric power projects pursuant to Sec. 4(h)(11)(A)(ii) of the Act (16 U.S.C. 839b(h)(11)(A)(ii)). See 48 FR 20117, May 4, 1983. The policies and procedures BPA is developing will address consultation on such compensation.

2. In addition to requiring consultation, Sec. 4(h)(11)(B) of the Act (16 U.S.C. 839b(h)(11)(B)) directs BPA, the U.S. Army Corps of Engineers, the U.S. Bureau of Reclamation, and the Federal Energy Regulatory Commission to coordinate with one another in discharging their fish and wildlife responsibilities under Sec. 4(h)(11)(A) of the Act (16 U.S.C. 839b(h)(11)(A)). BPA is accomplishing this coordination through existing mechanisms; these procedures do not address coordination except for coordination of consultations (see sub-Sec. 5(e) and the explanation of sub-Sec. 5(e), below).

3. The consultation procedure do not apply to BPA's responsibility to fund fish and wildlife measures under Sec. 4(h)(10) of the Act (16 U.S.C. 839b(h)(10). BPA's public participation procedures apply to policy issues in the exercise of these responsibilities, and BPA's acquisition and financial assistance regulations apply to the award of funds.

4. Separate procedures will apply to fish and wildlife considerations in BPA purchases of electric power to meet regional demand in related actions. Because of the current regional electric power surplus, BPA has no immediate plans to establish procedures for such purchases. However, BPA has established procedures for "billing credits," through which BPA supports electric power conservation and generation undertaken by others. See 48 FR 43484, September 23, 1983. These procedures provide for notice to fish and wildlife agencies and Indian tribes and opportunity to comment.

Sec. 2, Definitions

Sec. 2(c), Fish and Wildlife Agencies. This definition identifies the fish and wildlife agenices with which Sec. 4(h)(11)(B) of the Act (16 U.S.C. 839b(h)(11)(B)) directs BPA to consult. Sec. 4(h)(11)(B) of the Act directs BPA to consult with "the Secretary of the Interior, the Administrator of the National Marine Fisheries Service, and the State fish and wildlife agencies of the region. . . ." BPA has secured confirmation that the Secretary of the Interior and the Administrator of the National Marine Fisheries Service have delegated authority to represent them to the Pacific Northwest regional directors of the U.S. Fish and Wildlife Service and National Marine Fisheries Service, respectively.

Sec. 2(d), Indian Tribes. BPA believes that "appropriate Indian tribes," as used in Sec. 4(h)(11)(B) of the Act (16 U.S.C. 839b(h)(11)(B)), means federally recognized tribes located in the Columbia River Basin. Tribes recognized by the Federal government are listed at 48 FR 56862, December 23, 1983.

Sec. 2(e), Long-Term Power Agreements. Long-term power agreements are defined as written agreements which have a term of one year or longer and which fall into one of three categories.

In the first category are agreements for the sale or exchange by BPA of electric power or power-related services available through the management and operation of FCRPS hydroelectric facilities. Electric power is used here to mean both energy and capacity. Electric power sales include sales of firm power, surplus firm power, nonfirm power, and all other types of power BPA markets, both intraregional and interregional. BPA also markets power-related services available through the management and operation of FCRPS hydroelectric facilities. One example is energy storage, which BPA provides by holding water in reservoirs for later generation. Another example is operating reserves which is generating capacity BPA makes available to replace a customer's loss of generating capacity which would otherwise result in the customer's inability to meet its load.

In the second category are agreements for the purchase by BPA of electric power or power-related services. From time to time BPA purchases power or power-related services from BPA's customer utilities or others.

In the third category are agreements specifying how FCRPS hydroelectric facilities will be managed and operated. Examples are an agreement between BPA and the Corps of Engineers and Bureau of Reclamation which provides for provisional storage draft for the delivery of advance energy and agreements implementing the terms of the Columbia River Treaty between the United States and Canada.

The explanation of Sec. 3(d), below, further discusses long-term power agreements.

Sec. 2(f), Power Marketing Policies. Power marketing policies are defined as policies pertaining to power and power-related services available through the management and operation of the FCRPS (see the discussion of Sec. 2(e), above).

Sec. 2(g), Project Operators. As applied to BPA, BPA interprets the phrase "affected project operators," as used in Sec. 4(h)(11)(B) of the Act (16 U.S.C. 839(h)(11)(B)), to mean non-Federal operators of hydroelectric facilities on the Columbia River or its tributaries which could be affected by the exercise of BPA's responsibilities in the management and operation of FCRPS hydroelectric facilities. The procedures define "affected project operators" as the operators of hydroelectric projects on the Columbia River and its tributaries which are subject to the terms of the Pacific Northwest Coordination Agreement or located downstream from a Coordination Agreement project. Parties to the Pacific Northwest Coordination Agreement agree to operate their projects as if part of a single utility system. All Federal hydroelectric projects on the Columbia River and its tributaries are subject to the agreement. Consequently, BPA actions can affect all hydroelectric projects on the Columbia River and its tributaries which are subject to the Coordination Agreement. In turn, BPA actions can affect non-Federal project operators whose projects are located downstream from projects which are subject to the Coordination Agreement. BPA actions are not expected to similarly affect upstream projects not covered by the Coordination Agreement.

Sec. 3, Use of Procedures

The purpose of this section, together with Sec. 1, is to delineate the policies and actions on which BPA will consult. The exercise of BPA's responsibilities in the management and operation of FCRPS hydroelectric facilities ranges from the establishment of broad power marketing policies to hour-by-hour power production scheduling. BPA markets both power and services. BPA

is a party to the Pacific Northwest Coordination Agreement, and participates in the coordinated operation of Pacific Northwest electric power generating facilities, including annual planning. Together with the Division Engineer, North Pacific Division, U.S. Army Corps of Engineers, the BPA Administrator is the "U.S. Entity" under the Columbia River Treaty between the U.S. and Canada. BPA also has other authorities and responsibilities related to electric power conservation, the development of new generating facilities, and electric power transmission.

Under the procedures, BPA will always consult on BPA's participation in the establishment of policies and the implementation of actions which are specifically initiated and designed to implement the directives of Sec. 4(h)(11)(A) of the Pacific Northwest Power Act. These are the policies and actions referred to in Sec. 3(a) of the procedures. Because BPA exercises its FCRPS responsibilities in tandem with the Corps of Engineers and Bureau of Reclamation, such policies and actions are normally developed jointly with and Corps and/or Bureau, not independently by BPA. For example, BPA consulted on derating the firm energy capability of the FCRPS in conjunction with establishing the Water Budget as a firm operating constraint in coordinated hydroelectric system planning to provide flows for spring salmon and steelhead migration. BPA will consult on the establishment of other fish and wildlife constraints on FCRPS hydroelectric facility operations. BPA will also consult on alterations to such policies, and on actions which could alter their effectiveness.

Likewise, BPA will always consult on BPA's participation in the annual planning process pursuant to the Pacific Northwest Coordination Agreement (Sec. 3(b) of the procedures). This process establishes the rights and obligations of the parties to the agreement to operate their reservoirs as a part of the coordinated system. The process takes into account all member electric power loads, generation to meet loads, constraints on the operation of generating projects (including constraints for fish and wildlife), and other factors, including the coordinated operation of Canadian reservoirs subject to the Columbia River Treaty. Parameters addressed by the planning process include reservoir elevations, flows, and, indirectly, rates of reservoir elevation change.

BPA plans to make consultation on the Coordination Agreement planning process an annual focal point for consultation. The planning process provides an excellent opportunity to review FCRPS operations and related fish and wildlife concerns. Because BPA is a party to numerous short-term power agreements and individual power marketing transactions on an hourly, daily, and weekly basis, individual transactions do not have independent effect on system operation or fish and wildlife. Consultation on the Coordination Agreement planning process will permit examining FCRPS operations as a whole, reflecting the net effects of all expected operations. BPA will make available for consultation party review the submittals PBA makes as part of the planning process and the results of computer projections of Federal system operation. BPA will work with consultation parties to analyze fish and wildlife concerns and how they might be addressed either through the planning process or subsequently during the operating year.

BPA will also consult regarding power marketing policies which could affect fish and wildlife (Sec. 3(c) of the procedures). For example, assuming potential fish and wildlife impacts, BPA will consult on power marketing policies governing hydroelectric system services. Such policies can have long-term effects on FCRPS management and operation, and can affect the submittals BPA makes in the Coordination Agreement planning process.

Similarly, BPA will consult on long-term power agreements (Sec. 3(d) of the procedures). BPA markets FCRPS power and services through contracts with individual customers. Power sales and energy storage agreements are examples. In addition, from time to time BPA purchases power and services from others, also under written agreements. Some of these agreements are long-term, defined in Sec. 2(e) as having a term of 1 year or longer. Others are executed for terms of less than 1 year. As stated above, such short-term agreements and individual power and service transactions under long-term agreements do not have independently identifiable effects on the operation of the FCRPS or fish and wildlife. However, as with power marketing policies, long-term agreements can have long-term effects on FCRPS management and operation, and can affect the submittals BPA makes as part of the Coordination Agreement process. For this reason, BPA will consult on long-term agreements as provided in Sec. 3(d) in addition to consulting on the Coordination Agreement process.

In addition to agreements for the sale or purchase of power or services, the definition of long-term power agreements in Sec. 2(e) includes agreements "specifying how Federal Columbia River Power System hydroelectric facilities will be managed and operated." The explanation of Sec. 2(e), above, cites as an example the agreement with the Corps of Engineers and Bureau of Reclamation regarding provisional storage draft for the delivery of advance energy. This agreement allows BPA to draft the Libby, Dworshak, Hungry Horse, and Grand Coulee reservoirs below the normal operating levels allowed in operating under the Pacific Northwest Coordination Agreement. In addition, BPA participates in the development of agreements implementing the Columbia River Treaty. These include both annual operating plans and occasional special purpose agreements. BPA would consult on any such agreement when an alteration to the management and operation of the FCRPS in a manner that affects fish and wildlife could result.

Finally, BPA will consult on policies and actions in other areas of BPA responsibility which could alter the management and operation of the FCRPS in ways that affect fish and wildlife (Sec. 3(e) of the procedures). As mentioned above, BPA possesses authority to support electric power conservation and the development of generating facilities, and BPA also constructs and operates the Pacific Northwest Federal electic power transmission system, including interregional connections. BPA will consult when, for example, the purchase of electric power from a new generating facility would change FCRPS operations with fish and wildlife impacts.

An important limitation is that BPA will not consult on Sec. 3 (c), (d) or (e) policies and actions if their fish and wildlife impacts are subject to preestablished policies which apply the fish and wildlife directives of Sec. 4(h)(11)(A) of the Pacific Northwest Power Act. Thus, for example, if a power marketing policy's potential fish and wildlife impacts were confined to flows for spring salmon and steelhead migration, BPA would not consult on the policy because the Water Budget provides for such flows pursuant to Sec. 4(h)(11)(A) of the Pacific Northwest Power Act, and BPA consulted on the Water Budget. If the policy had potential fish and wildlife impacts other than on flows for spring salmon and steelhead migration, BPA would consult on the other impacts. Similarly, BPA would not consult on the fish and wildlife impacts

of a long-term power agreement if the agreement were subject to a power marketing policy on which BPA consulted and which provided for compliance with Sec. 4(h)(11)(A) of the Act. BPA's aim is to incorporate into the management and operation of FCRPS hydroelectric facilites, in coordination with the Corps of Engineers and the Bureau of Reclamation, fish and wildlife operating constraints and procedures implementing the requirements of Sec. 4(h)(11)(A) of the Act. This ultimately will facilitate BPA's power marketing program by permitting BPA to meet it's fish and wildlife responsibilities without consulting on individual power marketing policies and agreements.

Sec. 4, Consultation Procedures

The procedures are intended to improve consultation party opportunities to participate in BPA decisionmaking on fish and wildlife issues in hydroelectric system management and operation. The procedures are designed to achieve four objectives: (1) To avoid unnecessary formality; (2) to enable tailoring the manner in which consultations are conducted to the significance and complexity of proposed actions or policies and to the amount of time available; (3) to permit consultation parties to select the means by which they communicate their views to BPA; and (4) to enable consultation parties to have meaningful involvement in BPA decisionmaking.

Sec. 4(a), Notice. The intent of the procedures is to afford consultation parties as much time as is practicable given BPA's decisionmaking timetable for an action or policy. This provision attempts to accommodate consultation party desires for notice as early as possible in BPA's planning and decisionmaking, recognizing that a policy or action and its potential fish and wildlife impacts must be well enough identified in a notice to enable a consultation party to decide whether and how to respond.

Sec. 4(b), Copies of Notices. The Act confines BPA's duty to consult to the consultation parties identified in Sec. 2 of the procedures. BPA recognizes that others are interested in BPA policies and actions in hydroelectric system management and operation affecting fish and wildlife. This section provides for courtesy copies of consultation notices to other interested parties.

Sec. 4(c), Opportunity to Express Views and Consideration of Consultation Party Concerns. This section leaves to consultation parties the choice of how they wish to consult with BPA. BPA expects to accommodate consultation party requests for meetings unless an unreasonable burden on BPA would result. When appropriate to attempt to resolve differences or otherwise address issues, BPA may convene meetings of consultation parties. Sec. 4(c) of the procedures states that BPA will work with any consultation party which raises a concern in the consultation process.

Sec. 4(d), Annual Meeting. This section provides for an annual meeting. Several consultation party representatives recommended an annual meeting to address fish and wildlife issues in hydroelectric system management and operation.

Sec. 4(e), Other Means. Sec. 4(a)–4(d) are intended as minimum procedures; Sec. 4(e) makes it clear that BPA may elect to use additional means of consultation.

Sec. 4(f), Expedited Procedures. Available time will not always permit BPA to follow the procedures in Sec. 4(a)–4(c). Unanticipated hydrological, power system, and market conditions sometimes require BPA to take action on short notice. In addition, emergencies sometimes occur. BPA expects the procedures in Sec. 4(a)–4(c) to take a minimum of 21 to 30 calendar days. The procedures in Sec. 4(f) are intended to provide for consultation when time is short. If the amount of time available to gather necessary information and make a decision is less than 30 calendar days, BPA expects normally to follow the expedited procedures.

Sec. 4(g), Notice of Outcome. When BPA has adopted a policy or taken an action on which it has consulted, it will notify consultation parties.

Sec. 5, General Provisions

Sec. 5(a), Records. This section identifies the contents of consultation records. BPA does not intend to prepare detailed materials unless necessary to aid decisionmaking because of the complexity of an action and policy. The aim is to avoid unnecessary formality and to control the administrative burden associated with the procedures. When BPA follows both the consultation procedures in Sec. 4 and the Procedure for Public Participation in Major Regional Power Policy Formulation, the consultation record will be made part of the Official Record under the public participation procedure.

Sec. 5(b), Relationship to Procedure for Public Participation in Major Regional Power Policy Formulation. Pursuant to Sec. 4(g)(1) of the Pacific Northwest Power Act, BPA has adopted procedures for public participation in major regional power policy formulation. A major regional power policy is defined as:

> An agency statement of future effect and general applicability designed to implement or prescribe policy which the Administrator identifies as involving major regional power issues. Major Regional Power Policy does not include the development and execution of particular agreements, contracts, or other instruments between BPA and its customers. (46 FR 26368, May 12, 1981, Sec. 2[g].)

BPA will follow both the consultation procedures in Sec. 4 and the Procedure for Public Participation in Major Regional Power Policy Formulation on policies which qualify for both. Consultation parties may participate in public information and public comment forums and submit written comments pursuant to the Public Participation Procedure, and meet with BPA pursuant to Sec. 4(c).

Sec. 5(c), Coordination with National Environmental Policy Act (NEPA) Procedures. The Council on Environmental Quality's regulations for implementing NEPA urge Federal agencies to "integrate the requirements of NEPA with other planning and environmental review procedures required by law or by agency practice so that all procedures run concurrently rather than consecutively." (40 CFR 1500.2(c).) BPA expects to conduct combined NEPA and consultation meetings, when appropriate, and to integrate BPA's NEPA procedures with the consultation procedures in other ways.

Sec. 5(d), Use of Representatives. This provision is designed to leave to consultation parties the choice of using representatives. BPA would always send the written notices provided for in Sec. 4(a) and 4(d) to individual consultation parties. It would be the option of a consultation party to respond on its own behalf or through an association or other representative. BPA would notify a representative instead of a consultation party only for purposes of the expedited consultation procedures provided for by Sec. 4(f), and only if authorized. This is intended to permit, for example, use by fish and wildlife agencies and Indian tribes, at their discretion, of the Water Budget managers called for the Sec. 304(b) of the Columbia River Basin Fish and Wildlife Program as channels of communication with BPA.

Sec. 5(e), Coordination With the U.S. Army Corps of Engineers, U.S. Bureau of Reclamation, and Federal Energry Regulatory Commission. The consultation responsibilities of Sec. 4(h)(11)(B) of the Pacific Northwest Power Act apply to the Army Corps of

Engineers, Bureau of Reclamation, and Federal Energy Regulatory Commission as well as to BPA. Moreover, BPA shares with the Corps of Engineers and Bureau of Reclamation responsibility for the management and operation of the Federal Columbia River Power System. BPA may take actions jointly or in coordination with the Corps of Engineers and/or Bureau of Reclamation which fall within the scope of these consultation procedures. This subsection provides for coordinated consultations in such instances, including joint consultations.

III. Final Procedures

Sec. 1. *Purpose and Scope.* BPA seeks by these procedures to foster an expanded role for fish and wildlife agencies, Indian tribes, and hydroelectric project operators in Federal Columbia River Power System (FCRPS) hydroelectric facility management and operation. The purpose of these procedures is to define how BPA will discharge its consultation duties under Sec. 4(h)(11)(B) of the Act. Sec. 4(h)(11)(A) directs BPA to exercise its role in the management and operation of hydroelectric facilities on the Columbia River and its tributaries consistently with the purposes of the Act and other applicable laws to adequately protect, mitigate, and enhance affected fish and wildlife in a manner that provides fish and wildlife equitable treatment with other hydroelectric system purposes. In so doing, BPA must take into account to the fullest extent practicable the Columbia River Basin Fish and Wildlife Program adopted by the Northwest Power Planning Council. Sec. 4(h)(11)(B) of the Act directs BPA to exercise these responsibilities in consultation with the Pacific Northwest's Federl and State fish and wildlife agencies, appropriate Indian tribes, and affected project operators.

These procedures do not apply to: (1) Consultation under Sec. 4(h)(11)(B) of the Act on compensation of costs and power losses at non-Federal electric power projects pursuant to Sec. 4(h)(11)(A)(ii) of the Act; (2) BPA's coordination with other Federal agencies under Sec. 4(h)(11)(B) of the Act, except for coordination of consultation procedures; (3) the use of the BPA Fund and BPA authorities to protect, mitigate, and enhance fish and wildlife affected by hydroelectric facilities on the Columbia River and its tributaries pursuant to Sec. 4(h)(10)(A) of the Act; or (4) BPA's fish and wildlife responsibilities in electric power resource acquistion and development under Sec. 6 of the Act. Other procedures apply to these responsibilities.

Sec. 2. *Definitions*

a. *Director.* The Director of BPA's Division of Fish and Wildlife.

b. *Consultation Parties.* The fish and wildlife agencies, Indian tribes, and project operators defined and identified in this section.

c. *Fish and Wildlife Agencies.* The Pacific Northwest's Federal and State fish and wildlife agencies. Agencies within this category are the:

National Marine Fisheries Service
U.S. Fish and Wildlife Service
Idaho Department of Fish and Game
Montana Department of Fish and Wildlife and Parks
Oregon Department of Fish and Wildlife
Washington Department of Fisheries
Washington Department of Game

d. *Indian Tribes.* Any Indian tribe or band located in the Columbia River Basin which has a governing body which is recognized by the Secretary of the Interior. Indian tribes and bands within this category are the:

Burns Paiute Indian Colony
Conferated Tribes of the Colville Reservation
Coeur d'Alene Tribe of the Coeur d'Alene Reservation
Shoshone-Paiute Tribes of the Duck Valley Reservation
Kalispel Indian Community of the Kalispel Reservation
Kootenai Tribe of Idaho
Nez Perce Tribe of Idaho
Confederated Salish and Kootenai Tribes of the Flathead Reservation
Shoshone-Bannock Tribes of the Fort Hall Reservation of Idaho
Spokane Tribe of the Spokane Reservation
Confederated Tribes of the Umatilla Reservation
Confederated Tribes of the Warm Springs Reservation of Oregon
Confederated Tribes and Bands of the Yakima Indian Nation of the Yakima Reservation

e. *Long-Term Power Agreements.* Written agreements with a term of one year or longer: (1) For the sale or exchange by BPA of electric power or power-related services available through the management and operation of FCRPS hydroelectric facilities;

(2) For the purchase by BPA of electric power or power-related services from others; and

(3) Specifying how FCRPS hydroelectric facilities will be managed and operated.

f. *Power Marketing Policies.* Policies which address providing power or power-related services available through the management and operation of the FCRPS.

g. *Project Operators.* Utilities and other non-Federal entities which operate hydroelectric facilities on the Columbia River or its tributaries within the United States which are (1) subject to the Pacific Northwest Coordination Agreement; and/or (2) downstream of at least one Federal or non-Federal hydroelectric facility which is subject to the Pacific Northwest Coordination Agreement. Project operators in this catetory are the:

Chelan County PUD No. 1
Cowlitz County PUD No. 1
Douglas County PUD No. 1
Eugene Water and Electric Board
Grant County PUD No. 2
City of Idaho Falls
Idaho Power Company
Montana Power Company
Pacific Power & Light Company
Pend Oreille County PUD No. 1
Portland General Electric Company
Seattle City Light
City of Spokane
Tacoma City Light
Washington Water Power Company

h. *Program.* The Columbia River Basin Fish and Wildlife Program adopted by the Northwest Power Planning Council pursuant to Sec. 4(h) of the Pacific Northwest Electric Power Planning and Conservation Act, Pub. L. 96-501, 16 U.S.C. 839 et seq.

Sec. 3. *Use of Procedures.* BPA will consult, as provided in these procedures, on:

a. BPA's participation in the establishment of policies and the implementation of actions the primary purpose of which is to implement the directives of Sec. 4(h)(11)(A) of the Pacific Northwest Power Act to adequately protect, mitigate, and enhance fish and wildlife and to provide fish and wildlife equitable treatment in the management and operation of FCRPS hydroelectric facilities.

b. BPA's participation in the annual planning process pursuant to the Pacific Northwest Coordination Agreement.

c. BPA power marketing policies which may alter the management and operation of the FCRPS in a manner that affects fish and wildlife, except that BPA will not consult on such a policy to the extent that the provisions of Sec. 4(h)(11) of the Pacific Northwest Power Act have already been implemented as applied to the fish and wildlife impacts of such policy.

d. Long term power agreements which may alter the management and operation of the FCRPS in a manner that affects fish and wildlife, and the extension of the term of such

agreements, except that BPA will not consult on such an agreement or extension to the extent that the provisions of Sec. 4(h)(11) of the Pacific Northwest Power Act have already been implemented as applied to the fish and wildlife impacts of the agreement or extension.

e. Actions and policies in other areas of BPA responsibility which may alter the management and operation of FCRPS hydroelectric facilities in a manner that affects fish or wildlife, except that BPA will not consult on such a policy or action to the extent that the provisions of Sec. 4(h)(11) of the Pacific Northwest Power Act have already been implemented as applied to the fish and wildlife impacts of such action or policy.

Sec. 4. *Consultation Procedures.*

a. *Notice.* Except as stated in sub-Sec. 4(f), for all policies or actions on which BPA consults pursuant to these procedures, BPA will send notice of the contemplated policy or action by mail to all consultation parties. BPA will provide notice as early as practicable in the planning process once a policy or action and its potential fish and wildlife effects have been defined adequately to permit their description in such notice, and sufficiently in advance of BPA's decision or action to permit consultation parties to respond and to permit BPA to consider their comments and recommendations. BPA will mail notices to the chairperson, director, or chief executive officer of each consultation party, or, upon written request, such person's designee. Notices will describe the contemplated policy or action, identify its potential impacts on FCRPS hydroelectric facility management and operation and fish and wildlife, solicit comments and recommendations, and specify a date by which BPA must receive comments and recommendations.

b. *Copies of Notices.* Upon request, BPA will regularly mail courtesy copies of the notices provided for in sub-Sec. 4(a) to any person, including employees or members of consultation parties and any other person.

c. *Opportunities to Express Views and Consideration of Consultation Party Concerns.* Consultation parties may express their views and make recommendations to BPA through written comments, meetings with appropriate BPA representatives, or both. Consultation parties may meet with BPA either individually or in groups. BPA may, on its own initiative or at the request of a consultation party, convene a meeting of consultation parties to discuss a policy or action which BPA is consulting under these procedures. When a consultation party has identified a concern regarding a policy or action, BPA will work with the consultation party to address the concern.

d. *Annual Meeting.* In addition to other consultation procedures, BPA will conduct an annual meeting with all consultation parties to discuss BPA policies and actions pursuant to Sec. 4(h)(11)(A) of the Act. BPA will invite from consultation parties recommendations for the agenda of these meetings. BPA will send notices of such meetings to all consultation parties and will send courtesy copies of such notices to any person who has requested copies of notices pursuant to sub-Sec. 4(b).

e. *Other Means.* If necessary or appropriate to achieve the purpose of these procedures, BPA will use additional means for consultation. such means may include, but are not limited to, the dissemination of information and analyses, educational activities, and group problem-solving techniques.

f. *Expedited Procedures.* (1) BPA will follow expedited consultation procedures when BPA determines that an emergency or unanticipated immediate power marketing opportunity requires prompt action by BPA so that the time available is insufficient to permit BPA to follow the procedures in sub-Sec. (a) through (c) of this section. An emergency is a condition threatening safety or the reliability of the Pacific Northwest electric power system. An immediate power marketing opportunity is a use of the FCRPS which improves the efficiency or economy of the Pacific Northwest electric power system and on whch BPA must promptly take action or forego.

(2) Expedited consultation procedures will consist of notice by telephone to interested consultation parties and opportunity for those notified to express their views. For the purpose of this paragraph, an interested consultation party is a consultation party which, as determined by BPA, actively participates in FCRPS management and operation fish and wildlife issues or whose fish and wildlife interests the contemplated action would particularly affect.

g. *Notice of Outcome.* BPA will notify consultation parties of polices adopted or actions taken after consultation pursuant to this section. Such notice will briefly describe the policy or action, the basis for the policy or action, including fish and wildlife considerations, and the availability of additional information. BPA will send such notices to all consultation parties and will send courtesy copies of such notices to any person who has requested copies of notices pursuant to sub-Sec. 4(b).

Sec. 5. *General Provisions.*

a. *Records.* The Director will compile and maintain records on policies and actions to which these procedures are applied. Records will contain: (1) Notices issued under these procedures; (2) written submittals to BPA and BPA's replies, if any; (3) meeting notes; (4) if prepared, meeting transcripts, summaries or evaluations of comments, and records of decision; and (5) other information the Director determines is appropriate. Such records will be available for inspection and copying.

b. *Relationship to Procedure for Public Participation in Major Regional Power Policy Formulation.* For fish and wildlife policies which qualify as major regional power policies under BPA's Procedure for Public Participation in Major Regional Power Policy Formulation (46 FR 26368, May 12, 1981), BPA will follow both these consultation procedures, if applicable, and the Procedure for Major Regional Power Policy Formulation. BPA will combine and coordinate the two procedures to the extent practicable.

c. *Coordination with National Environmental Policy Act (NEPA) Procedures.* To the extent practicable, BPA will coordinate these procedures with NEPA procedures by combining notices and meetings and by using NEPA documents as sources of information on proposed policies or actions.

d. *Use of Representatives.* Use of individuals or associations to represent consultation parties under these procedures is at the discretion of the party represented. BPA will cooperate with such representatives, and, if a representative is so authorized, BPA will consider the views expressed by the representative as the views of the party represented. Unless authorized to do so for the purpose of the expedited consultation procedures in sub-Sec. 4(f), BPA will not substitute notice to a representive for notice to a consultation party under these procedures.

e. *Coordination With the U.S. Army Corps of Engineers, U.S. Bureau of Reclamation, and Federal Energy Regulatory Commission.* BPA will mail to the U.S. Army Corps of Engineers, U.S. Bureau of Reclamation, the Federal Energy Regulatory Commission copies of all written notices issued pursuant to these procedures. When addressing a subject or issue on which BPA shares responsibility with one or more of these agencies, to the extent practicable BPA will coordinate with them or conduct joint consultations.

Issued in Portland, Oregon, on May 22, 1985.

Peter T. Johnson,

Administrator.

[FR Doc. 85-13124 Filed 5-30-85; 8:45 am]

BILLING CODE 6450-01-M

Federal Energy Regulatory Commission

[Docket Nos. CP79-467-005 et al.]

ANR Pipeline Company et al.; Natural Gas Certificate Filings

Take notice that the following filings have been made with the commission:

1. ANR Pipeline Company

[Docket No. CP79-467-005]

May 23, 1985.

Take notice that on May 10, 1985 ANR Pipeline Company (Petitioner), 500 Renaissance Center, Detroit, Michigan 48243, filed in Docket No. CP79-467-005 a petition pursuant to Section 7(c) of the Natural Gas Act to amend the Commission's order issued June 10, 1981, in Docket No. CP79-467 so as to authorize a modification in the transportation service provided by Petitioner for Tennessee Gas Pipeline Company, a Division of Tenneco Inc. (Tennessee), all as more fully set forth in the petition to amend which is on file with the Commission and open for public inspection.

Petitioner requests authority to modify the level of transportation for Tennessee pursuant to the April 18, 1985, amendment to the transportation agreement between the parties dated January 5, 1981.

Petitioner states that the amendment provides for the modification of the transportation service by adjusting the contract demand. It is stated that the levels of transportation volumes would be 56,250 Mcf per day from November 1, 1985, to April 18, 1985, and from April 18, 1985, and for the remainder of the term of the agreement, the contract demand would be:

(i) April 18, 1985, to October 15, 1985, 75,000 Mcf of gas per day;

(ii) As of November 1, 1985, Tennessee would elect a quantity for transportation equal to no less than 56,250 Mcf of gas per day and no greater than 75,000 Mcf of gas per day;

(iii) As of November 1, 1986, Tennessee would elect a quantity for transportation equal to no less than 37,500 Mcf per day and no greater than 75,000 Mcf of gas per day;

(iv) As of November 1, 1987, and for the remainder of the term of the agreement, Tennessee would elect a quantity for transportation equal to no less than 18,750 Mcf of gas per day and no greater than 75,000 Mcf of gas per day.

Petitioner states that the proposed modifications are consistent with regulatory authority Tennessee has obtained, or is subject to, regarding the importation from Canada of the natural gas Tennessee is purchasing from ProGas Limited (ProGas). Petitioner requests authority to modify the transportation service as set forth in the amendment and Petitioner's petition to amend.

Petitioner states that its transportation service is provided in conjunction with service provided by Great Lakes Gas Transmission Company (Great Lakes). Great Lakes, it is stated, has filed with the Commission in Docket No. CP79-462-004 a petition seeking authority to modify its level of transportation.

Comment date: June 13, 1985, in accordance with the first subparagraph of Standard Paragraph F at the end of this notice.

2. Northwest Central Pipeline Corporation

[Docket No. CP85-485-000]

May 23, 1985.

Take notice that on May 6, 1985, Northwest Central Pipeline Corporation (Applicant), P.O. Box 3288, Tulsa, Oklahoma 74101, filed in Docket No. CP85-485-000 a request pursuant to § 157.205 of the Regulations under the Natural Gas Act (18 CFR 157.205) for authorization to relocate its south Chanute, Kansas, town border delivery point and to abandon by sale to the City of Chanute approximately 2.3 miles of gas pipeline, metering, regulating and appurtenant facilities under its authorization issued in Docket No. CP82-479-000 pursuant to section 7 of the Natural Gas Act, all as more fully set forth in the request on file with the Commission and open to public inspection.

Applicant states that in order to serve better the needs of the City of Chanute, Applicant proposes to move its south Chanute town border delivery point and to sell to the City of Chanute a segment of pipeline which is more properly a part of the city's distribution system. The estimated cost of constructing the new delivery point is $45,633 and the sale price of the facilities to be sold to the City of Chanute is $72,129.

Applicant states that there are two direct sale customers located on this segment of pipeline being sold to the City of Chanute but that they would continue to be served by Applicant. Applicant further states that this change is not prohibited by an existing tariff and no service to any customer would be terminated as a result of the proposed abandonments.

Comment date: July 8, 1985, in accordance with Standard Paragraph G at the end of this notice.

3. Lone Star Gas Company, a Division of ENSERCH Corporation

[Docket No. CP85-497-000]

May 23, 1985.

Take notice that on May 8, 1985, Lone Star Gas Company, a Division of ENSERCH Corporation (Lone Star), 301 South Harwood Street, Dallas, Texas 75201, filed in Docket No. CP85-497-000 a request pursuant to § 157.205 of the Regulations under the Natural Gas Act (18 CFR 157.205) for authorization to construct and operate sales taps and appurtenant facilities under the certificate issued pursuant to Section 7 of the Natural Gas Act in Docket Nos. CP83-59-000 and CP83-59-001, as amended in Docket No. CP83-59-002, all as more fully set forth in the request on filed with the Commission and open to public inspection.

Lone Star proposes to sell approximately 100 Mcf of natural gas on an annual basis to each of the following residential customers:

Customers	Location	Line	Station
Fred Lynch	Denton County, TX	F10	41+5
Eddie Sutton	Stephens County, OK	GB1	94+3

Also, Lone Star proposes to sell approximately 2,400 Mcf of natural gas on an annual basis to the following commercial customer at the following location:

Customer	Location	Line	Station
Oak Creek Homes	Cooke County, TX	G3	16+9

Lone Star states that sales to each of these customers would be made under the residential and commercial rate schedules permitted by the Oklahoma Corporation Commission and the Texas Railroad Commission, as appropriate.

Comment date: July 8, 1985, in accordance with Standard Paragraph G at the end of this notice.

Standard Paragraphs

F. Any person desiring to be heard or make any protest with reference to said filing should on or before the comment date file with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C.

20426, a motion to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 385.211 and 385.214) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file motion to intervene in accordance with the Commission's rules.

Take further notice that pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's rules of practice and procedure, a hearing will be held without further notice before the Commission or its designee on this filing if no motion to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a motion for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for the applicant to appear or be represented at the hearing.

G. Any person or the Commission's staff may, within 45 days after the issuance of the instant notice by the Commission, file pursuant to Rule 214 of the Commission's Procedural Rules (18 CFR 385.214) a motion to intervene or notice of intervention and pursuant to §157.205 of the Regulations under the Natural Gas Act (18 CFR 157.205) a protest to the request. If no protest is filed within the time allowed therefor, the proposed activity shall be deemed to be authorized effective the day after the time allowed for filing a protest. If a protest is filed and not withdrawn within 30 days after the time allowed for filing a protest, the instant request shall be treated as an application for authorization pursuant to Section 7 of the Natural Gas Act.

Kenneth F. Plumb,

Secretary.

[FR Doc. 85-13070 Filed 5-30-85; 8:45 am]

BILLING CODE 6717-01-M

[Docket Nos. ER85-504-000 et al.]

Consumers Power Company et al.; Electric Rate and Corporate Regulation Filings

Take notice that the following filings have been made with the commission:

1. Consumers Power Company

[Docket No. ER85-504-000]

May 23, 1985

The filing Company submits the following:

Take notice that on May 13, 1985, Consumers Power Company (Consumers) tendered for filing Consumers' Supplemental Agreement No. 1 to the Service Agreement Wholesale for Resale Electric Service with the City of Petoskey, Michigan, dated as of March 10, 1977.

Supplemental Agreement No. 1 reduces the capacity reservation in the Service agreement by 498 kW in 1985 and by an additional 358 kW in 1986 and thereafter, since Petoskey is increasing its participation by those amounts in the Michigan Public Power Agency's ownership in the J.H. Campbell Unit 3. In addition, for purposes of determining the capacity charges for the month of January 1985 and the next succeeding ten months, the Customer's historical demands for each month of the eleven-month period preceding the month of January 1985 shall be reduced by 498 kW. Also, for purposes of determining the capacity charges for the month of January 1986 and the next succeeding ten months, the Customer's historical demands for each month of the eleven-month period preceding the month of January 1986 shall be reduced by 358 kW.

Consumers requests an effective date of January 1, 1985, and therefore requests waiver of the Commission's notice requirements.

According to Consumers copies of the filing were served on the City of Petoskey and on the Michigan Public Service Commission.

Comment date: June 7, 1985, in accordance with Standard Paragraph E at the end of this notice.

2. Consumers Power Company

[Docket No. ER85-505-000]

May 23, 1985.

The filing Company submits the following:

Take notice that on May 13, 1985, Consumers Power Company (Consumers) tendered for filing Consumers' Supplemental Agreement No. 1 to the Service Agreement Wholesale for Resale Electric Service with the City of Portland, Michigan, dated as of March 10, 1977.

Supplemental Agreement No. 1 reduces the capacity reservation in the Service Agreement by 165 kW in 1985 and by an additional 118 kW in 1986 and thereafter, since Portland is increasing its participation by those amounts in the Michigan Public Power Agency's ownership in the J.H. Campbell Unit No. 3. In addition, for purposes of determining the capacity charges for the month of January 1985 and the next succeeding ten months, the Customer's historical demands for each month of the eleven-month period preceding the month of January 1985 shall be reduced by 165 kW. Also, for purposes of determining the capacity charges for the month of January 1986 and the next succeeding ten months, the Customer's historical demands for each month the eleven-month period preceding the month of January 1986 shall be reduced by 118 kW.

Consumers requests an effective date of January 1, 1985, and therefore requests waiver of the Commission's notice requirements.

Copies of this filing were served on the City of Portland and on the Michigan Public Service Commission.

Comment date: June 7, 1985, in accordance with Standard Paragraph E at the end of this notice.

3. Detroit Edison Company

[Docket No. ER85-513-000]

May 23, 1985.

Take notice that on May 15, 1985, Detroit Edison Company (Detroit) tendered for filing the following revised tariff sheets:

FERC Electric Tariff Original Volume No. 1

Seventh Revised Sheet No. 1
Ninth Revised Sheet No. 4
Ninth Revised Sheet No. 5
Eighth Revised Sheet No. 6
Eighth Revised Sheet No. 9
Ninth Revised Sheet No. 10
Sixth Revised Sheet No. 15
Second Revised Sheet No. 16
Fifth Revised Sheet No. 16a

Detroit requests that these proposed rates and tariffs be made effective on the commercial operation date of the Belle River 2 generating station presently expected to be on or before July 1, 1985. The proposed changes would increase revenues from jurisdictional sales and service by $4,250,000 based on the twelve month period ending December 31, 1985.

In addition, Detroit tendered for filing the following revised tariff sheets:

FERC Electric Tariff Original Volume No. 1

Eighth Revised Sheet No. 1

Tenth Revised Sheet No. 4
Tenth Revised Sheet No. 5
Ninth Revised Sheet No. 6
Ninth Revised Sheet No. 8
Eleventh Revised Sheet No. 9
Tenth Revised Sheet No. 10
Seventh Revised Sheet No. 15

Detroit requests that these proposed rates and tariffs be made effective on the commercial operation date of the Fermi-2 generating station presently expected to be on or about December 31, 1985. The proposed changes would increase revenues from jurisdictional sales and service by the amounts previously approved by the Commission in Docket No. ER84-418-000.

Detroit further states that it is essential that these increased revenues be made available to the Company on the commercial operation dates of Belle River 2 and Fermi-2 in order to minimize the chances of over- or under-recovery of the costs associated with these units. Detroit last filed a rate increase applicable to its jurisdictional sales on May 2, 1984. Since that time all costs including capital costs incurred by the Company have been subjected to the continuous impact of inflation and other factors making it essential to adjust the rates to meet these increased costs.

Detroit states that copies of the filing were served upon the public utility's jurisdictional customers and the Michigan Public Service Commission.

Comment date: June 7, 1985, in accordance with Standard Paragraph E at the end of this notice.

4. Florida Power & Light Company

[Docket No. ER85-515-000]

May 23, 1985.

Take notice that on May 16, 1985, Florida Power & Light Company (FP&L) tendered for filing revised Cost Support Schedules C, F and G (together with Cost Support Schedule F Supplement) that support the revised daily capacity charge for sales under Service Schedule B (Short-Term Firm Interchange Service) of FP&L's Contracts for Interchange Service with Florida Power Corporation, Fort Pierce Utilities Authority, City of Gainesville, Jacksonville Electric Authority, City of Kissimmee, City of Lakeland, Orlando Utilities Commission, City of St. Cloud, Sebring Utilities Commission, Seminole Electric Cooperative, Inc.; City of Starke, Tampa Electric Company, and City of Vero Beach; and revised Cost Support Schedules C-S, F-S, and G-S (together with Cost Support Schedule F-S Supplements) that support the revised daily capacity charge for sales under Service Schedule B-S (Short-Term Firm Interchange Service) of FP&L's Supplementary Agreement Number One to the Contract for Interchange Service with Seminole Electric Cooperative, Inc. FP&L states that the revised capacity charges have been calculated in accordance with the provisions of Service Schedule B and Service Schedule B-S and represent an updating of the currently effective capacity charges to reflect more current costs.

FP&L requests an effective date of May 1, 1985, and therefore requests waiver of the Commission's notice requirements.

According to FP&L a copy of this filing was served upon the above-named parties.

Comment date: June 7, 1985, in accordance with Standard Paragraph E at the end of this notice.

Standard Paragraphs

E. Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's rules of practice and procedure (18 CFR 385.211 and 385.214). All such motions or protests should be filed on or before the comment date. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 85-13078 Filed 5-30-85; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ST79-002 et al.]

Oasis Pipe Line Co. et al.; Extension Reports

May 28, 1985.

The companies listed below have filed extension reports pursuant to Section 311 of the Natural Gas Policy Act of 1978 (NGPA) and Part 284 of the Commission's regulations giving notice of their intention to continue transportation and sales of natural gas for an additional term of up to 2 years. These transactions commenced on a self-implementing basis without case-by-case Commission authorization. The sales may continue for an additional term if the Commission does not act to disapprove or modify the proposed extension during the 90 days preceding the effective date of the requested extension.

The table below lists the name and addresses of each company selling or transporting pursuant to Part 284; the party receiving the gas; the date that the extension report was filed; and the effective date of the extension. A letter "B" in the Part 284 column indicates a transportation by an interstate pipeline which is extended under § 284.105. A letter "C" indicates transportation by an intrastate pipeline extended under § 284.125. A "D" indicates a sale by an intrastate pipeline extended under § 284.146. A "G" indicates a transportation by an interstate pipeline pursuant to § 284.221 which is extended under § 284.105. The following symbols are used for transactions pursuant to a blanket certificate issued under Section 284.222 of the Commission's Regulations: a "G(HT)", "G(HS)" or "G(HA)", respectively, indicates transportation, sale or assignments by a Hinshaw pipeline; a "G(LT)" indicates transportation by a local distribution company, and a "G(LS)" indicates sales or assignments by a local distribution company.

Any person desiring to be heard or to make any protests with reference to said extension report should on or before June 13, 1985, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's rules of practice and Procedure (18 CFR 385.211, 385.214). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken, but will not serve to make the protestants party to a proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's rules.

Kenneth F. Plumb,

Secretary.

Docket No.	Transporter/seller	Recipient	Date filed	Part 284 subpart	Effective date	Expiration date
ST79-74-002	Oasis Pipe Line Co., P.O. Box 1188, Houston, TX 77001	Northern Natural Gas Co.	04-24-85	C	07-25-85	

Docket No.	Transporter/seller	Recipient	Date filed	Part 284 subpart	Effective date	Expiration date [2]
ST79-75-002	Houston Pipe Line Co., P.O. Box 1188, Houston, TX 77001.	do	04-24-85	C	07-25-85	
ST81-397-002	Natural Gas Pipeline Co. of America, P.O. Box 1208, Lombard, IL 60148.	United Gas Pipe Line Co	04-16-85	G	07-17-85	
ST81-398-002	do	Southern Natural Gas Co	04-16-85	G	07-17-85	
ST81-400-002	Delhi Gas Pipeline Corp., 1700 Pacific Ave., Dallas, TX 75201.	Natural Gas Pipeline Co. of America	04194-85	C	07-22-85	
ST81-410-002	Texas Eastern Transmission Corp., P.O. Box 2521, Houston, TX 77001.	United Gas Pipe Line Co	04-16-85	G	07-17-85	
ST81-411-002	do	Southern Natural Gas Co	04-16-85	G	07-17-85	
ST81-419-002	Natural Gas Pipeline Co. of America, P.O. Box 1208, Lombard, IL 60148.	Transcontinental Gas Pipe Line Corp	04-16-85	G	07-17-85	
ST81-429-002	Delhi Gas Pipeline Corp., 1700 Pacific Ave., Dallas, TX 75201.	Texas Eastern Transmission Corp	04-29-85	C	08-13-85	
ST81-431-002	Oasis Pipe Line Co., P.O. Box 1188, Houston, TX 77001	United Gas Pipe Line Co	04-29-85	C	07-28-85	
ST81-432-002	Houston Pipe Line Co., P.O. Box 1188, Houston, TX 77001.	do	04-29-85	C	07-28-85	
ST81-433-002	Mississippi River Transmission Corp., 9900 Clayton Rd., ST. Louis, MO 63124.	El Paso Natural Gas Co	04-30-85	G	08-01-85	
ST81-435-002	Natural Gas Pipeline Co. of America, P.O. Box 1208, Lombard, IL 60148.	Northern Natural Gas Co	04-19-85	G	08-01-85	
ST81-437-002	Liberty Natural Gas Co., 5307 E. Mockingbird, Dallas, TX 75206.	United Gas Pipe Line Co	04-22-85	C	07-28-85	
ST81-469-002	Seagull Energy Corp., 1001 Fannin, Houston, TX 77002	Transcontinental Gas Pipe Line Corp	04-29-85	C	08-01-85	
ST83-522-001 [1]	Mississippi Valley Gas Co., 711 West Capitol St., Jackson, MS 39203.	Texas Eastern Transmission Corp	04-26-85	G(HT)	06-30-85	07-25-85
ST83-565-001	Northwest Pipeline Corp., P.O. Box 1526, Salt Lake City, UT 84110.	Mountain Fuel Resources, Inc	04-24-85	G	07-24-85	
ST83-583-001 [1]	Columbia Gulf Transmission Co., P.O. Box 683, Houston, TX 77001.	Bridgeline Gas Distribution Co	04-19-85	B	07-07-85	07-18-85
ST83-606-001 [1]	Northern Natural Gas Co., 2223 Dodge St., Omaha, NE 68102.	Delhi Gas Pipeline Corp	04-26-85	B	07-19-85	07-25-85
ST83-629-001	United Gas Pipe Line Co., P.O. Box 1478, Houston, TX 77001.	Louisiana State Gas Corp	04-19-85	B	07-20-85	
ST83-636-001	El Paso Natural Gas Co., P.O. Box 1492, E. Paso, TX 79978.	West Texas Gas, Inc	04-19-85	B	07-27-85	
ST83-649-001	Valero Transmission Co., P.O. Box 500., San Antonio, TX 78292.	El Paso Natural Gas Co	04-26-85	C	07-26-85	
ST83-657-001	ANR Pipeline Co., 500 Renaissance Center, Detroit, MI 48243.	Delhi Gas Pipeline Corp	04-19-85	B	07-19-85	
ST83-672-001	United Gas Pipe Line Co., P.O. Box 1478,Houston, TX 77001.	Houston Pipe Line Co	04-25-85	B	08-01-85	
ST83-680-001	Natural Gas Pipeline Co. of America, P.O. Box 1208, Lombard, IL 60148.	Delhi Gas Pipeline Corp	04-23-85	B	08-11-85	
ST83-710-001	United Gas Pipe Line Co., P.O. Box 1478, Houston, TX 77001.	J-W Gathering Co	04-25-85	B	08-04-85	
ST84-1198-001	Northern Natural Gas Co., 2223 Dodge St., Omaha, NE 68102.	Peoples Natural Gas Co	04-26-85	B	07-31-85	

[1] These extension reports were filed after the date specified by the Commission's Regulation, and shall be the subject of a further Commission order.
[2] The pipeline has sought Commission approval of the extension of this transaction. The 90-day Commission review period expires on the date indicated.
NOTE.—The noticing of these filings does not constitute a determination of whether the filings comply with the Commission's Regulations.

[FR Doc. 85-13071 Filed 5-30-85; 8:45 am]
BILLING CODE 6717-01-M

[Docket No. GP85-28-000]

Texas; NGPA HNG Oil Co., Driscol-Seiver No. 3, et al., JD 82-11071, et al.; Filing of Stripper Well Disqualifications and Withdrawal of Applications

May 29, 1985.

Take notice that on February 4, 1985, HNG Oil Company (HNG) filed in the above-captioned docket 23 notices of stripper well disqualifications covering wells located in the State of Texas. These wells have been determined by the Texas Railroad Commission to qualify as stripper gas wells under section 108 of the Natural Gas Policy Act (NGPA). These determinations have become final pursuant to section 275.202(a) of the Commission's regulations. HNG states that the notices of stripper well disqualifications are being filed in response to an audit by the Commission staff, indicating that each of the wells may have produced in excess of 60 Mcf per production day during a 90 day period. HNG states that it has not received the section 108 price for gas produced from any of the subject wells and that in each case the purchaser has agreed that no refunds are due. HNG also states that it has withdrawn the section 108 determinations for each of the listed wells.

Within 30 days after publication of this notice in the **Federal Register**, any person may file a protest to HNG's petition or a motion to intervene with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426. Any person seeking to become a party to this proceeding must file a motion to intervene in accordance with Rule 214 of the Commission's rules of practice and procedure.

Kenneth F. Plumb,
Secretary.

[FR Doc. 85-13072 Filed 5-30-85; 8:45 am]
BILLING CODE 6717-01-M

[Docket No. RP85-148-000]

Transcontinental Gas Pipe Line Corp.; Petition for Authority To Institute Direct Billing Procedure for Retroactive Order No. 94 Payments

May 28, 1985.

Take notice that on May 22, 1985, Transcontinental Gas Pipe Line Corporation (Transco) filed in the referenced proceeding a Petition For Authority to Institute Direct Billing Procedure for Retroactive Order No. 94 Payments. Transco states that it seeks authorization to bill customers directly for retroactive Order No. 94 costs

because of what it states are inequities and undesirable market distortions inherent in recovering such costs through PGA filings. As is more fully explained in the filing, Transco states that it proposes to calculate each customer's share of such costs by matching, on a monthly basis, the incurrence of Order No. 94 costs to each customer's share of system purchases, and to bill the resulting amounts, including interest, at the customer's option either in a lump sum or in equal monthly installments over a 12-month period beginning July 1, 1985, or at such later date as the Commission may prescribe. Contingent upon approval of the direct billing proposal, Transco also proposes to refund directly, with interest, all Order No. 94 amounts collected pursuant to its PGA filings in Docket No. TA84-2-29 and TA85-1-29. Transco states that its direct billing proposal is designed to place customers in the position they would have been in if no retroactive Order No. 94 costs had been collected in Transco's rates to date, and then to apportion the total costs to customers on the basis of their respective purchase levels from Transco during the period such costs were incurred.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's rules of practice and procedure (18 CFR 385.211, 214). All such motions or protests should be filed on or before June 6, 1985. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 85-13073 Filed 5-30-85; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. EC85-14-000]

Washington Water Power Co.; Notice of Filing

May 28, 1985.

Take notice that on May 17, 1985, the Washington Water Power Company (the "Company"), a Washington corporation, qualified to transact business in the states of Washington, Idaho and Montana with its principal business office in Spokane, Washington, filed an application with the Federal Energy Regulatory Commission, pursuant to section 203 of the Federal Power Act, seeking an order authorizing it to purchase from the General Services Administration a 115 kV transmission line between Colfax, Washington, and Lewiston, Idaho.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE, Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's rules of practice and procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before June 10, 1985. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 85-13074 Filed 5-30-85; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. TA85-2-57-000 and TA85-2-57-001]

Western Transmission Corp., Proposed Changes

May 24, 1985.

Take notice that Western Transmission Corporation (Western) on April 29, 1985, tendered for filing as part of its FPC Gas Tariff, Original Volume No. 1, the following sheet: Twenty Fourth Revised Sheet No. 3-A.

According to section 381.103(b)(2)(iii) of the Commission's regulations (18 CFR 381.103(b)(2)(iii)), the date of filing is the date on which the Commission receives the appropriate filing fee, which in the instant case was not until May 21, 1985. The proposed effective date of the above tariff sheet is June 1, 1985.

The proposed changes would increase the monthly charges for purchased gas to Colorado Interstate Gas Company, Western's sole jurisdictional customer, pursuant to the provisions of Section 18 of Western's FPC Gas Tariff, Original Volume No. 1.

Copies of this filing have been served upon Colorado Interstate Gas Company.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's rules of practice and procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before June 3, 1985. Protests will be considered by the Commisson in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kennety F. Plumb,

Secretary.

[FR Doc. 85-13075 Filed 5-30-85; 8:45 am]

BILLING CODE 6717-01-M

Office of Fossil Energy

National Petroleum Council Refinery Survey Task Group; Rescheduled Meeting

In FR Doc. 85-11775, published on May 15, 1985 (50 FR 20261), the Department of Energy announced that the sixth meeting of the Refinery Survey Task Group was to be held on Wednesday, May 15, 1985. This date has been changed. The new date should read: Tuesday, June 4, 1985. The time, location and agenda will remain the same.

Issued in Washington, D.C., May 23, 1985.

William A. Vaughan,

Assistant Secretary Fossil Energy.

[FR Doc. 85-13123 Filed 5-30-85; 8:45 am]

BILLING CODE 6450-01-M

ENVIRONMENTAL PROTECTION AGENCY

[OPP-50637; FRL-2823-8]

Issuance of Experimental Use Permits; ICI Americas, Inc., et al.

Correction

In FR Doc. 85-9842 appearing on page 16137 in the issue of Wednesday, April 24, 1985, make the following correction: In the third column, in the first complete paragraph, in the first line, *"11273-EUP-43"* should read *"11273-EUP-42"*

BILLING CODE 1505-01-M

[PF-408; PH-FRL 2812-4]

Certain Companies Pesticide Tolerance Petitions

Correction

In FR Doc. 85-8029 beginning on page 14156 in the issue of Wednesday, April 10, 1985, make the following correction: In the third column, in paragraph 1a, in the second line, "dimethyl-4-(*H*-" should read "dimethyl-4-(1*H*-".

BILLING CODE 1505-01-M

[OW-FRL 2844-F]

Reopening of Public Comment Period on Tentative Denial of Applications for Variances Submitted Under Section 301(m) of the Clean Water Act

AGENCY: Environmental Protection Agency.

ACTION: Notice of reopening of public comment period.

SUMMARY: The United States Environmental Protection Agency (EPA) is today providing notice that the public comment period is being reopened on EPA's tentative decisions to deny variance requests submitted by the Louisiana-Pacific Corporation, Samoa, California, and the Simpson Paper Company, Fairhaven, California, pursuant to section 301(m) of the Clean Water Act.

DATE: Interested persons may submit written comments on the tentative decisions to deny the 301(m) variance requests and on the administrative record to the address below. All comments must be received at the address below on or before July 1, 1985.

ADDRESS: Send written comments on the tentative decisions to U.S. Environmental Protection Agency, Region 9 (ORC), Attn: Lorraine Pearson, Regional Hearing Clerk, 215 Fremont Street, San Francisco, California, 94105.

FOR FURTHER INFORMATION CONTACT: For further information on these actions, or to make requests for copies of the Tentative Decision Documents, contact Doug Eberhardt, 301(m) Project Officer, U.S. Environmental Protection Agency, Region 9 (W-5-3), 215 Fremont Street, San Francisco, California 94105, (415) 974-8269.

SUPPLEMENTARY INFORMATION: On January 8, 1983, President Reagan signed into law section 301(m) of the Clean Water Act (CWA), which provides the opportunity for two pulp mills located on the Samoa Peninsula in California to apply to the EPA for permit modifications from nationally applicable Best Practicable Technology (BPT) and Best Conventional Technology (BCT) effluent limitations, and the requirements of section 403 of the CWA, for biochemical oxygen demand (BOD) and pH.

These two companies hold National Pollutant Discharge Elimination System (NPDES) permits numbered CA0005894 and CA0005282. On September 26, 1983, the companies submitted to EPA applications for such variances. EPA requested supplementary information from both applicants on December 29, 1983, and March 15, 1984, and received such information shortly thereafter.

EPA proposes to deny the 301(m) applications. On December 14, 1984, the Regional Administrator, EPA Region 9, signed Tentative Decision Documents denying the 301(m) applications. Notice of the tentative denials was provided on December 20, 1984 (49 FR 49501). EPA held a public workshop on January 23, 1985, in the Council Chambers, Eureka City Hall, for the purpose of explaining to the public the proposed EPA action. A public hearing was held on February 6, 1985, at which time EPA received oral comments and written statements from the public regarding EPA's tentative denials.

Originally, the public comment period was scheduled to end March 1, 1985. Subsequently, EPA received several requsts to extend the comment period from various elected officials, the applicants, and the general public. Therefore, EPA extended the public comment period through April 15, 1985. Notice was provided on March 11, 1985 (50 FR 9708). Since April 15, 1985, EPA has added materials to the administrative record on these matters. EPA plans to add additional information, including summaries of all meetings between EPA and the applicants held after April 15, 1985. In order to allow the public an opportunity to comment on these additions, EPA is reopening the public comment period until July 1, 1985. All interested persons are invited to express their views in writing to EPA. All comments should be mailed in time to be received at the address above before the close of business on July 1, 1985. All substantive comments or questions will be fully considered by EPA in preparing subsequent decisions on the 301(m) applications, and will be responded to in a document accompanying these decisions.

If EPA issues final denials of these variances, the State of California, a delegated NPDES state, will reissue the NPDES discharge permits under which the applicants are now operating. The new permits would have BPT/BCT effluent limitations. If EPA reverses its decision and issues final approvals of the variances, then EPA will issue the modified NPDES permits with appropriate modified effluent limitations.

Dated: May 22, 1985.

Judith E. Ayres,

Regional Administrator, Region 9.

[FR Doc. 85-13051 Filed 5-30-85; 8:45 am]

BILLING CODE 6560-50-M

[OPTS-51573; TSH-FRL 2844-6]

Certain Chemicals Premanufacture Notices

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: Section 5(a)(1) of the Toxic Substances Control Act (TSCA) requires any person who intends to manufacture or import a new chemical substance to submit a premanufacture notice (PMN) to EPA at least 90 days before manufacture or import commences. Statutory requirements for section 5(a)(1) premanufacture notices are discussed in EPA statements of the final rule published in the **Federal Register** of May 13, 1983 (48 FR 21722). This notice announces receipt of eighteen PMNs and provides a summary of each.

DATE: Close of Review Period:

P 85-980—August 14, 1985.
P 85-981—August 17, 1985.
P 85-982, 85-983, 85-984, 85-985, 85-986, 85-987, 85-988, 85-989, 85-990, 85-991 and 85-992—August 18, 1985.
P 85-993, 85-994, 85-995 and 85-996—August 19, 1985.
P 85-997 and 85-998—August 20, 1985.

Written comments by:

P 85-980—July 15, 1985.
P 85-981—July 18, 1985.
P 85-982, 85-983, 85-984, 85-985, 85-986, 85-987, 85-988, 85-989, 85-990, 85-991 and 85-992—July 19, 1985.
P 85-993, 85-994, 85-995 and 85-996—July 20, 1985.
P 85-997 and 85-998—July 21, 1985.

ADDRESS: Written comments, identified by the document control number "[OPTS-51573]" and the specific PMN number should be sent to: Document Control Officer (TS-793), Chemical Information Branch, Information Management Division, Office of Toxic Substances, Environmental Protection Agency, Room E-201, 401 M Street SW., Washington, DC 20460 (202-382-3532).

FOR FURTHER INFORMATION CONTACT: Wendy Cleland-Hamnett, Premanufacture Notice Management Branch, Chemical Control Division (TS-

794), Office of Toxic Substances, Environmental Protection Agency, Room E-611, 401 M Street SW., Washington, DC 20460 (202-382-3725).

SUPPLEMENTARY INFORMATION: The following notices contain information extracted from the non-confidential version of the submission provided by the manufacturer on the PMNs received by EPA. The complete non-confidential document is available in the Public Reading Room E-107 at the above address.

P 85-980

Importer. Marubeni America Corporation.

Chemical. (G) Copolymer of unsaturated polyester and allyl-compounds.

Use/Import. (S) Putty for vehicle. Import range: 20,000-80,000 kg/yr.

Toxicity Data. No data submitted.

Exposure. No data submitted.

Environmental Release/Disposal. Disposal by incineration.

P 85-981

Manufacturer. Confidential.

Chemical. (G) Amide acetal.

Use/Production. (G) Urethane additive. Prod. range: Confidential.

Toxicity Data. Acute oral: 6.8 g/kg; Acute dermal: 5 g/kg; Irritation: Skin—Non-irritant, Eye—Irritant.

Exposure. Manufacture: dermal, a total of 6 workers, up to 8 hrs/da, up to 200 da/yr.

Environmental Release/Disposal. 2 kg/batch released to air. Disposal by publicly owned treatment works (POTW).

P 85-982

Manufacturer. The Upjohn Company.

Chemical. (G) Oligomeric aryl polyimide.

Use/Production. (S) Extender/crosslinker in polymeric materials with functional (OH, NH_2, etc.) and in polymeric functionalized coatings (NH_2 group). Prod. range: Confidential.

Toxicity Data. No data submitted.

Exposure. Confidential.

Environmental Release/Disposal. 0.5 kg/batch released to land with trace amounts to air. Disposal by landfill.

P 85-983

Manufacturer. The Upjohn Company.

Chemical. (G) Aryl diimide.

Use/Production. (S) Extender/crosslinker in polymeric materials with functional (OH, NH_2, etc.) and in polymeric functionalized coatings (NH_2 group). Prod. range: Confidential.

Toxicity Data. No data submitted.

Exposure. Confidential.

Environmental Release/Disposal. 0.5 kg/batch released to land with trace amounts to air. Disposal by landfill.

P 85-984

Manufacturer. Confidential.

Chemical. (G) Modified polyether.

Use/Production. (G) Binder constituent for an industrial coating having an open, non-dispersive use. Prod. range: 18,000-36,500 kg/yr.

Toxicity Data. No data submitted.

Exposure. Manufacture: dermal, a total of 18 workers, up to 8 hrs/da, up to 16 da/yr.

Environmental Release/Disposal. 3 to 25 kg/batch released to land. Disposal by incineration and landfill.

P 85-985

Manufacturer. Confidential

Chemical. (G) Polyurethane from aromatic based isocyanate, functional material, polyether polyol, and alkanols.

Use/Production. (G) Coating polymer having a non-dispersive use. Prod. range: 100,000-1,000,000 kg/yr.

Toxicity Data. No data submitted.

Exposure. Manufacture and processing: dermal, a total of 56 workers, up to 8 hrs/da, up to 260 da/yr.

Environmental Release/Disposal. 5 to 185 kg/batch released to land. Disposal by incineration and landfill.

P 85-986

Manufacturer. Confidential.

Chemical. (G) Functional aliphatic isocyanate based polymer.

Use/Production. (G) Coating product. Prod. range: 50,000-600,000 kg/yr.

Toxicity Data. No data submitted.

Exposure. Manufacture and processing: dermal, a total of 29 workers, up to 8 hrs/da, up to 61 da/yr.

Environmental Release/Disposal. 5 to 150 kg/batch released to land. Disposal by incineration and landfill.

P 85-987

Importer. Confidential.

Chemical. (G) Substituted sulfoaryl aryldioxazine.

Use/Import. (G) Dye. Import range: Confidential.

Toxicity Data. Irritation: Skin—Non-irritant, Eye—Non-irritant; LC_{50} 96 hr (Rainbow trout): >100 mg/l; EC_{50} 48 hr (Daphnia magna): >100 mg/l; EC_{50} 96 hr (Green algae): 150 mg/l; Ame test: Negative.

Exposure. Use: up to 2-3 hrs/da, up to 2 da/wk.

Environmental Release/Disposal. No data submitted.

P 85-988

Manufacturer. Confidential.

Chemical. (G) Tetrasubstituted aminonaphthol.

Use/Production. (G) Chemical intermediate. Prod. range: 550-15,000 kg/yr.

Toxicity Data. No data submitted.

Exposure. Manufacture and use: dermal, a total of 16 workers, up to 0.4 hr/da, up to 10 da/yr.

Environmental Release/Disposal. No release.

P 85-989

Manufacturer. Confidential.

Chemical. (G) Tetrasubstituted aminonaphthol.

Use/Production. (G) Open, non-dispersive use. Prod. range: 450-12,500 kg/yr.

Toxicity Data. No data submitted.

Exposure. Manufacture and processing: dermal, a total of 16 workers, up to 1 hr/da, up to 10 da/yr.

Environmental Release/Disposal. No Release.

P 85-990

Manufacturer. Confidential.

Chemical. (G) Polymer of substituted norbornane derivative, disubstituted ethane and disubstituted benzene.

Use/Production. (G) Contained use in a commercial article. Prod. range: 350-3,400 kg/yr.

Toxicity Data. No data submitted.

Exposure. Manufacture and processing: dermal, a total of 6 workers, up to 2.0 hr/da, up to 10 da/yr.

Environmental Release/Disposal. No release. Less than 30 kg/batch incinerated.

P 85-991

Manufacturer. Confidential.

Chemical. (S) 4,4'-(octahydro-4,7-methano-5H-inden-5-ylidene)bis(2-phenoxyethanol).

Use/Production. (G) chemical intermediate. Prod. range: 300-2,200 kg/yr.

Toxicity Data. No data on the PMN substance submitted.

Exposure. Manufacture and use: dermal, inhalation and ocular, a total of 16 workers, up to 2.0 hr/da, up to 5 da/yr.

Environmental Release/Disposal. No release. Less than 20 kg/batch incinerated.

P 85-992

Manufacturer. Confidential.

Chemical. (G) Vinyl urethane.

Use/Production. (G) Resin. Prod. range: Confidential.

Toxicity Data. No data submitted.

Exposure. Confidential.

Environmental Release/Disposal. Confidential. Disposal by POTW.

P 85-993

Manufacturer. Uniroyal, Inc.

Chemical. (G) Polyester/polyol-terminated toluene diisocyanate polymer.

Use/Production. (S) Various molded sheet or extruded shapes used for industrial products, e.g., rolls, seals, belts, automotive parts, etc. Prod. range: Confidential.

Toxicity Data. No data submitted.

Exposure. Manufacture: dermal, a total of 2 workers, up to 3 hrs/da, up to 20 da/yr.

Environmental Release/Disposal. No release.

P 85-994

Manufacturer. Confidential.

Chemical. Benzothiazolesulfonic acid, substituted-[(substituted-pyrimidinyl)azo]carbomonocycle-, alkali metal salt.

Use/Production. (S) Paper dye (for powder). Prod. range: Confidential.

Toxicity Data. No data on the PMN substance submitted.

Exposure. Manufacture: dermal and inhalation, a total of 5 workers, up to 6 hrs/da.

Environmental Release/Disposal. 1 to 5 pounds released to water. Disposal by POTW, incineration and approved landfill.

P 85-995

Manufacturer. Confidential.

Chemical. (G) Benzothiazolesulfonic acid, substituted-[(substituted-pyrimidinyl)azo]carbomonocycle-, substituted amine salt.

Use/Production. (S) Paper dye (for liquid). Prod. range: Confidential.

Toxicity Data. No data on the PMN substance submitted.

Exposure. Manufacture: dermal, a total of 2 workers, up to 6 hrs/da.

Environmental Release/Disposal. 1 to 10 pounds released to water. Disposal by POTW, incineration and approved landfill.

P 85-996

Manufacturer. Confidential.

Chemical. (G) Benzothiazolesulfonic acid, substituted-[(substituted-pyrimidinyl)azo]carbomonocycle-, alkali metal salt.

Use/Production. (S) Paper dye (for powder). Prod. range: Confidential.

Toxicity Data. No data on the PMN substance submitted.

Exposure. Manufacture: dermal, a total of 2 workers, up to 6 hrs/da.

Environmental Release/Disposal. 1 to 10 pounds released to water. Disposal by POTW, incineration and approved landfill.

85-997

Manufacturer. Confidential.

Chemical. (G) Trisubstituted[disubstituted(polycyclic-sulfonyloxy)]benzene.

Use/Production. (G) Highly-controlled non-dispersive use in a commercial product. Prod. range: 500-1,000 kg/yr.

Toxicity Data. No data on the PMN substance submitted.

Exposure. Manufacture and processing: dermal and inhalation, a total of 16 workers, up to 0.7 hr/da, up to 10 da/yr.

Environmental Release/Disposal. 0 to 0.5 kg/batch released to water. Less than 0.5 kg/batch disposed of by biological treatment system and less than 10.0 to less than 7 kg/batch incinerated.

P 85-998

Manufacturer. Confidential.

Chemical. (G) Mixed esters of butane polyols.

Use/Production. (S) Intermediate for an additive to a rocket propellant and a bulk pharmaceutical. Prod. range: Confidential.

Toxicity Data. No data submitted.

Exposure. Confidential.

Environmental Release/Disposal. Confidential.

Dated: May 24, 1985.

Linda K. Smith,

Acting Director, Information Management Division.

[FR Doc. 85-13055 Filed 5-30-85; 8:45 am]

BILLING CODE 6560-50-M

[OPTS-59716; TSH-FRL 2844-5]

Certain Chemicals Premanufacture Notices

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: Section 5(a)(1) of the Toxic Substances Control Act (TSCA) requires any person who intends to manufacture or import a new chemical substance to submit a premanufacture notice (PMN) to EPA at least 90 days before manufacture or import commences. Statutory requirements for section 5(a)(1) premanufacture notices are discussed in EPA statements of the final rule published in the **Federal Register** of May 13, 1983 (48 FR 21722). In the **Federal Register** of November 11, 1984, (49 FR 46066) (40 CFR 723.250), EPA published a rule which granted a limited exemption from certain PMN requirements for certain types of polymers. PMNs for such polymers are reviewed by EPA within 21 days of receipt. This notice announces receipt of seven such PMNs and provides a summary of each.

DATES: Close of Review Period:

Y 85-72—June 10, 1985.

Y 85-73 and 85-74—June 11, 1985.

Y 85-75, 85-76, 85-77, and 85-78—June 12, 1985.

FOR FURTHER INFORMATION CONTACT: Wendy Cleland-Hamnett, Chemical Control Division (TS-794), Office of Toxic Substances, Environmental Protection Agency, Room E-611, 401 M Street SW., Washington, DC 20460 (202-382-3725).

SUPPLEMENTARY INFORMATION: The following notices contain information extracted from the non-confidential version of the submission by the manufacturer on the exemptions received by EPA. The complete non-confidential document is available in the Public Reading Room E-107 at the above address between 8:00 a.m. and 4:00 p.m., Monday through Friday, excluding legal holidays.

Y 85-72

Manufacture: Confidential.

Chemical: (G) Methacrylic tetrapolymer.

Use-Production: (G) Coating polymer Prod. range: Confidential

Toxicity Data: No data submitted.

Exposure: No data submitted.

Environmental Release/Disposal: No data submitted.

Y 85-73

Manufacturer: Sybron Chemicals Inc.

Chemical: (G) Styrene-methacrylate terpolymer.

Use/Production: (S) Industrial primary vehicle in reprographic inks. Prod. range: Confidential.

Toxicity Data: No data submitted.

Exposure: No data submitted.

Environmental Release/Disposal: No data submitted.

Y 85-74

Manufacturer: Emery Chemicals.

Chemical: (S) Polymer of dimethyl glutarate, dimethyl adipate, dimethyl azelate, 1,4-butanediol and 2-ethylhexanol.

Use/Production: (S) Industrial plasticizer for polyvinyl chloride resin. Prod. range: 450,000-600,000 kg/yr.

Toxicity Data: No data submitted.

Exposure: No data submitted.

Environmental Release/Disposal: No data submitted.

Y 85-75

Manufacturer: Hercules Incorporated.

Chemical: (G) Acrylic-methacrylic ploymer.

Use/Production: (G) Photoreactive ploymer. Prod. range: 1,370–61,200 kg/yr.

Toxicity Data: No data submitted.

Exposure: No data submitted.

Environmental Release/Disposal: No data submitted.

Y 85–76

Manufacturer: Hercules Incorporated.

Chemical: (G) Acrylic-methacrylic polymer.

Use/Production: (G) Photoreactive polymer. Prod. range: 1,370–61,200 kg/yr.

Toxicity Data: No data submitted.

Exposure: No data submitted.

Environmental Release/Disposal: No data submitted.

Y 85–77

Manufacturer: Hercules Incorporated.

Chemical: (G) Acrylic-methacrylic polymer.

Use/Production: (G) Photoreactive polymer. Prod. range: 1,370–61,200 kg/yr.

Toxicity Data: No data submitted.

Exposure: No data submitted.

Environmental Release/Disposal: No data submitted.

Y 85–78

Manufacturer: Hercules Incorporated.

Chemical: (G) Acrylic-methacrylic polymer.

Use/Production: (G) Photoreactive polymer. Prod. range: 1,370–61,200 kg/yr.

Toxicity Data: No data submitted.

Exposure: No data submitted.

Environmental Release/Disposal: No data submitted.

Dated: May 24, 1985.

Linda K. Smith,

Acting Director, Information Management Division.

[FR Doc. 85–13052 Filed 5–30–85; 8:45 am]

BILLING CODE 6560–50–M

[OPP–180675; FRL–2824–5]

South Dakota Department of Agriculture; Receipt of Application for Emergency Exemption To Use 2-Methoxy-N-(2-Oxo-1,3-Oxazolin-3-Yl)-Acet-2',6'-Xylidine; Solicitation of Public Comment

Correction

In FR Doc. 85–9993 beginning on page 16346 in the issue of Thursday, April 25, 1985, make the following correction:

On page 16347, first column under "SUPPLEMENTARY INFORMATION" fifth line, "except" should read "exempt".

BILLING CODE 1505–01–M

[ER–FRL–2844–2]

Environmental Impact Statements; Notice of Availability

Responsible Agency

Office of Federal Activities, General Information, (202) 382–5073 or (202) 382–5075.

Availability of Environmental Impact Statements filed May 20, 1985 Through May 24, 1985 Pursuant to 40 CFR 1506.9.

EIS No. 850211, Draft, BLM, UT, PR, Spring Combined Hydrocarbon Lease Conversion, Approval, Carbon, Duschesne, Grand, and Uintah Counties, Due: July 19, 1985, Contact: Robert Pizel, (303) 236–1080.

EIS No. 850212, Draft, AFS, AK, 1986–90 Alaska Pulp Long-Term Sale Area, Operating Plan, Designation, Due: July 17, 1985, Contact: K.W. Roberts, (907) 747–6671.

EIS No. 850213, Draft, AFS, NM, Gila National Forest, Land and Resource Management Plan, Grant, Catron, Hidalgo, and Sierra Counties, Due: September 8, 1985, Contact: Kenneth Scoggin, (505) 388–1986.

EIS No. 850214, Draft, COE, FL, Occidental Wetland Phosphate Mining Operations, Dredge and Fill Permit, section 404, Hamilton County, July 15, 1985, Contact: John Hall, (904) 791–1664.

EIS No. 850215, Draft, AFS, CA, Angeles National Forest, Land and Resource Management Plan, Los Angeles, Ventura, and San Bernardino Counties, Due: September 20, 1985, Contact: P.C. Sweetland, (818) 577–0050.

EIS No. 850216, Final, MMS, ATL, MA, RI, CT, NY, NJ, PA, DE, MD, VA, NC, 1985 Outer Continental Shelf (OCS) Oil and Gas Sale $111, Exploration, Development, and Production of Hydrocarbon Resource, Lease Offering, Due: July 1, 1985, Contact: Heino Beckert, (703) 285–2303.

EIS No. 850217, Draft, FHW, MC, Route 54 Relocation, Rt. 42/134 west to the Grand Glaize Bridge, Camden County, Due: July 15, 1985, Contact: James Roberts, (314) 751–2876.

Amended Notice

EIS No. 850199, Final, FHW, CA, Harbor Freeway Corridor/I–110 Transit Contruction, San Pedro to the Convention Center in the City of Los Angeles, Due: July 1, 1985, Published FR 05–17–85—Review period reestablished.

Dated: May 28, 1985.

David G. Davis,

Acting Directror, Office of Federal Activities.

[FR Doc. 85–13139, Filed 5–30–85; 8:45 am]

BILLING CODE 6560–50–M

[ER–FRL–2844–3]

Environmental Impact Statements and Regulations; Availability of EPA Comments

Availability of EPA comments prepared May 13, 1985 through May 17, 1985 pursuant to the Environmental Review Process (ERP), under section 309 of the Clean Air Act and section 102(2)(c) of the National Environmental Policy Act as amended. Requests for copies of EPA comments can be directed to the Office of Federal Activities at (202) 382–5075/76. An explanation of the ratings assigned to draft environmental impact statements (EISs) was published in FR dated October 19, 1984 (49 FR 41108).

Draft EISs

ERP No. DS–COE–G36048–OK, Rating LO, Lake Witchita—Holiday Creek Flood Control Plan, TX. *Summary:* EPA has not identified any potential environmental impacts requiring changes to the proposal. However, EPA requested additional information to substantiate conclusions reached under the section 404(b)(1) Evaluation.

ERP No. D–USN–K60015–NV, Rating EC2, Fallon Naval Air Station, Master Land Withdrawal, Application for Withdrawal of Federally Owned Land from Public Land Laws, NV. *Summary:* EPA expressed concerns regarding the projects relationship with the Supersonic Operations Area and other proposed actions at the Naval Air Station, and with regard to the environmental management of the withdrawn lands. EPA requested further clarification on the relationship between the proposed action and alternatives given in the DEIS.

Final EISs

ERP No. F–BLM–J60005–CO, Northeast Resource Area Mgmt. Plan, Canon City District, CO. *Summary:* The FEIS was, in general, responsive to EPA's concerns on the DEIS. EPA recommended including clarification of the public and inter-agency involvement process in the Record of Decision and noted the need for cumulative impact analyses.

ERP No. F–FHW–D40197–MD, MD–43/Whitemarsh Blvd. Extension, I–695/Baltimore Beltway to I–95 and US 1 Improvements, I–695 to North Silver Spring Road, MD. *Summary:* While the FEIS did provide specific mitigation for EPA's original concern regarding noise and habitat impacts, EPA requested that there be a strong monitoring program to oversee the implementation of mitigation measures.

ERP No. F-FHW-K40108-CA, CA-52 Construction, I-805 to Santo Road, CA. *Summary:* EPA had no comments on the FEIS.

ERP No. F-FHW-L40140-OR, South East Hubbard Rd. Extension, 122nd Ave. to US 212, OR. *Summary:* EPA made no formal comments. EPA has no objection to implementation of the preferred alternative as proposed

ERP No. F-NRC-E00004-GA, Vogtle Electric Generating Plant, Unit 1 and 2, Operating License, Issuance, Savannah R., GA. *Summary:* EPA expressed concerns regarding noise mitigation for a residence elevated a predicted 12-20 dBA by a nearby transmission line during wet periods. EPA recommended feasible mitigation be implemented for this home site as well as additional noise monitoring along the transmission line to better predict noise impact to this and possibly other receptors. Monitoring to verify adequate noise attenuation by the requested noise mitigation was also recommended.

ERP No. F-SFW-L64027-AK, Becharof Nat'l Wildlife Refuge, Comprehensive Conservation Plan, AK. *Summary:* EPA made no formal comments. EPA has completed the review of the FEIS and found it to be satisfactory and responsive to comments.

ERP No. F-UAF-G11013-NM, Melrose Airforce Bombing Range Expansion, NM. *Summary:* The FEIS was responsive to EPA's comments on the DEIS and EPA identified no new issues of concern regarding the project.

Regulation

ERP No. R-NRC-A22102-00, Decommissioning Criteria for Nuclear Facilities; 10 CFR Parts 30, 40, 50, 51, 70, 72; (50 FR 5600). *Summary:* EPA recommended clarification of several aspects of the NRC proposal including the duration of the decommissioning period, the type of termination surveys for radiation, and the need for environmental documentation.

Dated: May 28, 1985.

David G. Davis,

Acting Director, Office of Federal Activities.

[FR Doc. 85-13140 Filed 5-30-85; 8:45 am]

BILLING CODE 6560-50-M

FEDERAL COMMUNICATIONS COMMISSION

[CC Docket No. 85-166]

Investigation of Special Access Tariffs of Local Exchange Carriers; Order Designating Issues for Investigation

Adopted: May 21, 1985.
Released: May 24, 1985.

By the Chief, Common Carrier Bureau.

1. On February 19, 1985 and March 8, 1985, the Commission released two orders (*February 19 Order* and *March 8 Order*)[1] in which it addressed issues raised by the special access tariffs filed on December 3, 1984. The orders concluded that, with certain specified revisions, the tariffs were generally acceptable and could be permitted to go into effect. Carriers were permitted to re-file tariffs incorporating the suggested revisions by March 15, 1985. The orders also concluded, however, that the Commission required more information and further investigation of certain issues to make conclusive findings as to some aspects of the proposed rate structure and rate levels. By this order, we are initiating that investigation, designating the issues we will be investigating, and providing the schedule for written submissions. In addition, we are requesting local exchange carriers (LECs) filing special access tariffs to provide justifications for the tariff rates and provisions that raised these issues. We are permitting interested members of the public to file oppositions and comments on the LECs' submissions. We specifically invite the parties who addressed these issues in the pleading cycle for the December 3 special access filing to participate in this proceeding.

I Rate Structure Issues

2. The Commission's *February 19 Order* focused on the issues raised by the rate structure proposed in the tariffs. The order concluded that further investigation was required as to three aspects of the rate structure: (A) the rate structure proposed for multipoint access services; (B) the rate structure proposed for video services; and (C) the exclusion from the tariffs of facilities provided to American Telephone & Telegraph (AT&T) under the Shared Network Facilities Agreements (SNFAs).

A. Multipoint Access Services

3. With respect to multipoint access service, the order raised two concerns. First, some commenters asserted that the special access rate structure makes multipoint service in many cases more expensive than point-to-point service, despite the fact that many multipoint systems are more efficient and economical than point-to-point networks. We noted in the order that, under the proposed tariffs, "the relative prices of multipoint and point-to-point networks for different numbers of channels may be anomalous." *February 19 Order* at para. 34. While we pointed out that multipoint layouts were not always more economical than point-to-point, we nevertheless concluded that the issue warranted further investigation. Local exchange carriers filing written submissions in this investigation should justify the higher rates for multipoint service vis-a-vis point-to-point networks in the special access rate structure. Parties filing oppositions to the LECs' submissions should address the question of whether the special access rate structure fairly reflects the costs of multipoint networks and, if it does not, how it should be changed.

4. The second issue raised by the multipoint access rate structure involved the bridging charges originally proposed by the National Exchange Carrier Association (NECA) and several of the Bell Operating Companies (BOCs). These carriers proposed to apply a bridging charge on a "per amplifier" basis, while some commenters, and Bell of Pennsylvania, preferred a "per port" charge. Objections to the "per amplifier" charge prompted NECA, Pacific Bell, and Mountain Bell to agree to amend their tariffs and charge on a "per port" basis. The *February 19 Order* required all carriers to use a "per port" charge in their revised special access filings of March 15, 1985 but stated that the issue would be revisited in the course of this investigation. Accordingly, the LECs' submissions should address whether a "per amplifier" bridging charge is justified. Parties filing oppositions should state the basis for their objections to such a charge.

B. Video Services

5. The *February 19 Order* raised two issues regarding the proposed rate structure for video services. First, many commenters claimed that the actual routing and cost characteristics of video service were so different from voice service that application of the same rate structure to both would be unreasonable. For example, the commenters pointed out that the proposed distance-sensitive channel mileage charge is calculated according to the mileage between relevant serving wire centers. The location of such serving wire centers, however, is dictated primarily by the pattern of telephone distribution within an area rather than by the delivery patterns for video service. In addition, the commenters argued that video channels use facilities that transit television

[1] Investigation of Access and Divestiture Related Tariffs, CC Docket No. 83-1145, Phase I and Phase II, Part 1, FCC 85-70 and FCC 85-100, released Feb. 19, 1985 (50 FR 12637) and Mar. 8, 1985 (50 FR 11440), respectively.

operating centers, which are not necessarily the same as the wire centers used by voice channels. The commenters also pointed out other routing characteristics which they claimed the proposed rate structure failed to take into account. For example, the commenters argued that the rates do not reflect the fact that microwave facilities, whose costs tend not to vary with distance, are used for long haul, interexchange circuits, while cable, whose costs are distance-sensitive, is increasingly being used for short haul, intraexchange circuits. Based on such differences, the commenters urged that a separate rate structure for video was justified.

6. We concluded in the order that we did not have sufficient information before us to identify precisely whether, or to what extent, the routing of voice and video service differed or whether such differences justified a separate rate structure for video. Therefore, while we did not believe that prescription of a different rate structure was required at that time, we noted that the record before us did raise a factual question regarding the actual routing of video services which warranted further investigation. Parties addressing this issue should identify the differing routing and resulting cost characteristics of the two services. Parties should either provide routing information that will enable us to determine the nature and extent of the differences or identify with specificity the information necessary to our resolution of this issue.

7. The second issue raised in the *February 19 Order* regarding the proposed video service rate structure concerned NECA's claimed revenue requirement. Several commenters had argued that NECA's video service revenue requirement was overstated because it included investment in plant that is not actually needed or used to provide video transmission service, such as unassigned polyethylene shielded video (PSV) cable pairs. In the order, we noted that this investment had been included previously in the video rate base because it seemed a reasonable and prudent investment at the time it was made and represented plant intended solely for video service. *February 19 Order* at para. 42. These facilities now can be used, however, to deliver other services such as digital data transmissions. The order pointed out that such alternative applications might be discouraged if we permitted local carriers to include all unassigned PSV cables in the video service rate base. Thus, continued full allowance of unassigned PSV cable costs could encourage inefficient use of resources and possibly unnecessary investment in new facilities for which the unassigned PSV cables could be substituted. Moreover, to the extent that other uses exist, it would be unfair to allocate the entire PSV cable investment to the television rate base when it is concededly of no use to video service ratepayers. On the other hand, the *February 19 Order* pointed out that regulatory incentives probably played a role in the carriers' failure to develop alternative uses since we had, in the past, allowed the full PSV cable investment to be included in the video rate base.

8. We concluded in the *February 19 Order* that a partial inclusion in the rate base of 50 percent of the PSV investment was a reasonable interim approach while the Commission investigated further the allocation of PSV cable costs to determine the proper allocation. As part of our investigation, we seek information from the carriers regarding the PSV facilities they may have and/or use. Carriers with unassigned PSV should identify the amount of PSV facilities (in terms of mileage, original cost, and depreciated cost) in their rate base, the amount that has ever been used for video transmissions, the amount that has ever been used for other purposes, the amount currently used for video, and the amount currently used for other purposes. The carriers also should specify all efforts they have made to develop alternative uses for these facilities, including uses for group-supergroup channels and other alternatives suggested in Docket 21499.[2] Based on this and other information, the carriers should justify continuing or modifying the allowance of 50 percent of the investment in unused PSV facilities in the rate base for video transmission services.

C. Shared Network Facility Arrangements

9. MCI had argued in its comments that the special access tariffs discriminate against interexchange carriers who cannot take similar service at the lower rate provided under the Shared Network Facility Agreements (SNFAs) between AT&T and the BOCs. MCI maintained that the proposed special access rates were higher than the rates AT&T pays under the SNFAs but that AT&T refused to disclose the SNFA rates. AT&T responded that the facilities provided under SNFAs are part of its network and perform no access functions. We stated in the order that MCI's allegations would be taken up as part of our continuing investigation. Therefore, the exchange carriers should explain and justify the basis for the difference between charges under SNFAs and special access charges. In addition, parties should comment on whether the provision of transmission service between the switches of a single interexchange carrier or the provision of switching capacity to an interexchange carrier for interexchange routing constitutes special access service.

II. Cost Support and Rate Level Issues

10. The *March 8 Order* addressed the cost-related issues raised by the special access tariffs. The order concluded that further investigation of underlying costs and cost allocations was required with respect to: (A) The proper level of the proposed non-recurring charges; (B) the wide variations in the rates proposed by NECA and the BOCs as well as certain variations among services; and (C) the cost allocations among certain rate elements.

A. Non-Recurring Charges

11. The December 3 special access tariffs assessed non-recurring charges (NRCs) for each termination of a circuit. This approach differed from previous NRCs which were applied per circuit. The effect of the switch to a charge per termination was to double the level of the NRC for a typical circuit with one termination at each end. Several commenters challenged the higher rate level as unjustified.

12. The Commission concluded in the *March 8 Order* that no suspension of the NRCs was necessary. The Commission based this conclusion on the fact that NRCs historically have been set at levels too low to recover the various costs that NRCs were supposed to recover, such as those costs involved in processing orders, initiating service, and terminating service. Moreover, the proposed NRCs were likely to recover more fairly costs which would otherwise be incorporated into monthly rates. The order reflected our ongoing concern that non-recurring charges be based upon a proper apportionment of costs between recurring and non-recurring charges. On the other hand, we noted in the order that the exchange carriers failed to provide adequate cost support for the NRCs they proposed. Although we were troubled by the lack of specific support, we determined that further investigation and close scrutiny of the actual costs, coupled with a separate accounting

[2] American Telephone and Telegraph Company, Offer of Facilities to Other Common Carriers, CC Docket No. 21499, 92 FCC 2d 1217, *recon. denied*, 95 FCC 2d 1108 (1983).

order for NRCs, should result in reasonable charges while protecting users in the event that the proposed charges proved to be excessive.

13. Our investigation will examine both the allocation of costs to non-recurring charges and the rate level necessary to recover those costs. Accordingly, in their pleadings on this issue, carriers should endeavor to identify the costs that should be classified as non-recurring and, once data based on actual operating experience is available, should identify the revenues generated by the NRCs in the special access tariffs. Carriers should, of course, provide a complete explanation of their cost calculations.

14. Non-recurring charges have historically been set at levels that were probably too low to recover actual costs that might be described as non-recurring. Considerations may exist that would justify permitting or even requiring a continuation of that practice. We accordingly encourage carriers and other interested persons to comment upon the desirability of departing from cost-based pricing for non-recurring charges.

B. Rate Variations

15. Several commenters argued that variations in the proposed rates call into question the reasonableness of, and justification for, the proposed rates, since wide rate variations suggest that the rates are not based on costs. Some of the BOC rates varied by as much as 250 percent from NECA's and by as much as 700 percent from each other. In addition, some of the exchange carriers apparently had adjusted their rates for certain services to reflect such non-cost-based factors as customer migration from one service to another depending upon relative pricing.

16. Our concern with wide variations in rates was that they could indicate that individual rates were not based on the costs of efficient operation. We recognized, however, that many variables exist which can affect costs differently among differently-situated carriers. We stated in the order our belief that we did not have a clear basis at that time for singling out specific rates. We therefore concluded that further investigation and monitoring were necessary to determine whether wide rate variations exist and are attributable to factors, other than cost differences, which should not be reflected in a carrier's rate levels.

C. Cost Allocation Issues

17. The *March 8 Order* concluded that further investigation also was required with respect to the carriers' allocations of costs among certain rate elements. Some commenters had disputed the cost allocations, claiming that certain costs should be allocated exclusively to certain rate elements or that some charges should be unbundled and recovered in a separate rate element. In the case of station apparatus (Account 231), large PBX's (Account 234), and the so-called "hybrid option" (for 4-wire to 2-wire conversion), the commenters argued that the investment was sufficiently user-specific to permit recovery via a separate rate element rather than as part of the channel termination charge. Similarly, commenters urged the Commission to de-average the single charge for Facility Interface Grade Performance (FACIF) so that users of less costly interfaces would not be subsidizing users of more expensive interfaces. Some commenters also urged the Commission to reject the local carriers' proposed allocation to the channel termination element of the costs for digital interexchange facilities, certain switching and billing costs, and voice grade performance. The commenters argued that these costs are associated with truck facilities while the channel termination element is associated only with local loops. Finally, commenters disputed the allocation of channel termination costs to derive the charges for 2-wire, 4-wire, metallic facilities, and telegraph grade channels, claiming that the proper allocation would be lower for 4-wire and metallic facilities, and higher for telegraph grade channels. The Commission concluded in the *March 8 Order* that further investigation was needed as to all of these allocation issues.

III. Summary of Issues Under Investigation

18. The issues outlined in the previous paragraphs are numbered and listed below. For the convenience of the Commission and commenters, parties filing written submissions in response to this order should organize their discussion according to this list, referencing the issues and sub-issues by letter and number.

Summary of Issues Under Investigation

I. Rate Structure Issues Raised in *February 19 Order*

A. Multipoint Services

1. Rate discrimination between multipoint and point-to-point
   (a) Does the proposed rate structure fairly reflect the relative costs of multipoint and point-to-point service?
   (b) Is the assignment of costs to rate elements just and reasonable?
   (c) Should the Commission prescribe a new rate structure?
2. "Per port" versus "per amplifier"
   (a) Should bridging charges be applied on a "per amplifier" basis or a "per port" basis?
   (b) Should the Commission prescribe the application of the charge on a "per port" basis?

B. Video Services

1. Routing of video transmissions
   (a) Does the routing of video service differ significantly from that of voice service?
   (b) If so, do the differences warrant a separate rate structure for video tramsmissions?
2. What percentage of PSV cable pair costs should be included in the video service rate base?

C. SNFAs

1. Do the facilities provided under SNFAs constitute special access service?
2. Do the special access tariffs unlawfully discriminate against interexchange carriers that cannot obtain SNFAs?

II. Cost Support and Rate Level Issues Raised in *March 8 Order*

A. Non-recurring Charges

1. What is the proper relationship between costs and non-recurring charges?
2. Are the special access non-recurring charges excessive in light of cost data based on actual operating experience?

B. Rate Variations

1. For which rates do wide variations exist among different carriers or for different services?
2. Are the variations attributable solely to variations in the costs experienced by differently-situated carriers?
3. If not, should the Commission prescribe new cost allocations and/or rate levels?

C. Cost Allocation Issues

1. Station Apparatus and Large PBXs
   (a) Does investment in the station apparatus (Account 231) and large PBX (Account 234) accounts include investment applicable to basic voice channels?
   (b) If so, should such investment be recovered as part of the channel termination rate element?
   (c) Should investment for large PBXs in Account 234 be recovered only from PBX users?

2. Should the costs associated with the following be recovered as part of the channel termination charge or through a separate rate element:
   (a) Digital interexchange facilities
   (b) Certain switching and billing costs (Private line switching services, Cat. 781 and 782; Automatic Message Accounting Momentary Use, Cat. 4B (COE))
   (c) Voice grade performance
   (d) Hybrid option
3. Should the charge for Facility Interface Grade Performance be de-averaged into separate charges for differently priced interfaces?
4. Should the allocation of channel termination costs to derive the charges for 2-wire, 4-wire, metallic facilities, and telegraph grade channels be altered?

IV. Accounting Orders

19. As a result of this investigation, the Commission may conclude that rate level adjustment are necessary. In the *March 8 Order*, the Commission directed carriers to keep account of amounts billed to special access customers under the present tariffs, in order to facilitate refunds if warranted. The Commission did not specify a particular method that LECs should use, in part because of a concern that any particular method might be inconsistent with the record-keeping and billing procedures of some of the exchange companies, and thus might be unnecessarily burdensome. In implementing this directive, however, exchange carriers should assure that the method used is adequate to allow recalculation of rates and refunds based upon the overall level of rates or the revision of specific rate elements. This obligation applies to both the recurring and non-recurring charges. Exchange carriers are free to implement this obligation in any reasonable manner which accomplishes this purpose. One method which might be both economical and effective, in view of the relatively small number of special access customers and the relatively brief period during which these tariffs are likely to be in effect, may be simply to retain all bills rendered pursuant to the special access tariff provisions.

IV. Future Proceedings

A. Schedule for Written Submissions

20. By this order, we seek to obtain further information and analysis of the issues identified above. We are bifurcating our consideration of the issues, however, for purposes of scheduling written submissions. We had noted in the *March 8 Order* that, upon investigation, the proposed special access rates could prove to be too high. Moreover, our resolution of certain of the cost issues outlined above could require adjustments in the proposed rate levels. Final resolution of rate level issues, however, must await the accumulation of actual operating experience which would provide us with the evidence necessary to determine whether the various special access rates fairly recover costs without exceeding lawful levels. This information also will be useful in determining the issues raised by the proposed non-recurring charges and the rate variations among carriers and services. Therefore, we will defer consideration of these issues until cost information based on actual operating experience becomes available.

21. Accordingly, we are inviting local exchange carriers who have special access tariffs on file with the Commission to file pleadings within 30 days of the release of this order justifying the tariff provisions that raise the issues set forth in Part I and Part II.C. of the Summary above. AT&T may file such a pleading but only with respect to Part I.C. Each of these pleadings shall be captioned "Direct Case" and must supply the information upon which the carrier relies to support its position on the merits. Opposition cases and comments may be filed by interested parties other than LECs 30 days after the filing period closes for direct cases. In these pleadings, parties who believe that our investigation and resolution of these issues require cost data or other empirical information not previously made available to us should identify such information with specificity so that we can decide whether to send out information requests. Rebuttals to the oppositions and comments may be filed by the LECs (and by AT&T, with respect to Part I.C.) 15 days after the filing period for oppositions and comments closes.

22. We will request pleadings setting forth direct cases for, and oppositions to, the issues identified in Parts II.A and II.B of the Summary above when cost data based on actual operating experience becomes available.

23. One exception to the delayed consideration of rate level issues involves the special access rates proposed by Bell Atlantic in their March 15 filing responding to the *March 8 Order*. In that filing, Bell Atlantic did not use the rate adjustment factors (RAFs) suggested in the *March 8 Order*. Instead, Bell Atlantic proposed to use revised, higher RAFs. Subsequent to its filing, Bell Atlantic deferred the effective date of the rate revisions until June 1 and filed additional supporting data. By Public Notice dated April 18, 1985, we invited comments from the public on the additional material. While we will be considering the Bell Atlantic tariffs, and the comments thereon, in this investigation, the schedule for comments with respect to the Bell Atlantic filing will remain as specified in that Public Notice.

B. Procedures for Filing Written Submissions

24. In the following paragraphs, we provide details on the specific procedures to be followed in this investigation. The procedures adapt our usual rules in some respects to the needs of this proceeding.

25. The investigation in this docket will be conducted as a notice and comment proceeding. The initial round of filings by the LECs (and by AT&T with respect only to Part I.C. of the issue summary) should be captioned "Direct Cases." The pleadings opposing the LECs' direct cases should be captioned "Opposition to Direct Case" or "Comments on Direct Case," not as petitions to suspend or reject, and the LECs rebuttals to the oppositions and comments must be captioned "Rebuttals." In the event of any inconsistency, the specific procedures set out in this order apply rather than the Commission's Rules.

26. Formal submissions should include in the heading the title of the proceeding and docket number. The pleadings should also reference the specific tariff or tariffs to which the pleading is directed, *e.g.*:

In the matter of:

Investigation of Special Access Tariffs of Local Exchange Carriers.	CC Docket No. 85-166.
Local Telephone Co., Inc. Tariff F.C.C. No. XXX.	Transmittal No. XXX.

27. An original and seven copies of all pleadings shall be filed with the Secretary of the Commission. In addition, one copy shall be delivered to the Commission's commercial firm for copying, International Transcription Services, Inc., (ITS) at its office in Room 315 of the Brown Building, 1200 19th Street, NW., Washington, D.C. Parties should also serve copies on the carriers or organizations whose tariffs are specifically addressed in the pleadings and therefore listed in the heading. Because we expect a large number of filings dealing in many cases with provisions in individual tariffs, we believe that service on all persons interested in the outcome of this proceeding would be burdensome and

unnecessary. Interested persons may obtain copies of the pleadings from ITS or may photocopy the pleadings maintained in the Commission's docket library in Room 239, 1919 M Street, NW., Washington, D.C.

28. Members of the general public who wish to express their views in an informal manner on the tariffs included in this investigation may do so by submitting one copy of their comments. There are no requirements as to form for such comments except that the docket number should be specified in the heading. Informal comments should be addressed to the Secretary, Federal Communications Commission, Washington, D.C. 20554.

29. *Ex parte* contacts (*i.e.*, written or oral communications with a Commissioner or Commission staff members which address the merits of a proceeding, both procedural and substantive) are permitted in this proceeding until a public notice of scheduled Commission consideration of a final order or a final order itself is issued. Written *ex parte* contacts must be filed with the Secretary for inclusion in the public file. A written summary of oral *ex parte* presentations must be served on the Secretary and the Commission officials receiving each presentation. For other requirements, see generally § 1.1231 of the Commission's Rules, 47 CFR 1.1231.

Federal Communications Commission.

William F. Adler,

Deputy Chief, Common Carrier Bureau.

[FR Doc. 85-13014 Filed 5-30-85; 8:45 am]

BILLING CODE 6712-01-M

FEDERAL HOME LOAN BANK BOARD

[No. AC-435]

Citizens Savings Bank, FSB, Providence RI; Final Action Approval of Conversion Application

Dated: May 24, 1985.

Notice is hereby given that on May 2, 1985, the Office of General Counsel of the Federal Home Loan Bank Board, acting pursuant to the authority delegated to the General Counsel or his designee, approved the application of Citizens Savings Bank, FSB, Providence, Rhode Island, for permission to convert to the stock form of organization. Copies of the application are available for inspection at the Secretariat of said Corporation, 1700 G Street N W., Washington, D.C. 20552 and at the Office of the Supervisory Agent of said Corporation at the Federal Home Loan Bank of Boston, One Federal Street, 30th Floor, Boston, Massachusetts 02110.

By the Federal Home Loan Bank Board.

Jeff Sconyers,

Secretary.

[FR Doc. 13069 Filed 5-30-85; 8:45 am]

BILLING CODE 6720-01-M

[No. AC-436]

Commercial Federal Savings Bank, Hammond, LA; Final Action Approval of Conversion Application

Dated: May 24, 1985.

Notice is hereby given that on April 30, 1985, the Ofice of General Counsel of the Federal Home Loan Bank Board, acting pursuant to the authority delegated to the General Counsel or his designee, approved the application of Commercial Federal Savings Bank, Hammond, Louisiana, for permission to convert to the stock federal savings bank form of organization. Copies of the application are available for inspection at the Secretariat of said Corporation, 1700 G Street N W., Washington, D.C. 20552 and at the Office of the Supervisory Agent of said Corporation at the Federal Home Loan Bank of Dallas, Post Office Box 619026, Dallas/Fort Worth, Texas 75261.

By the Federal Home Loan Bank Board.

Jeff Sconyers,

Secretary.

[FR Doc. 85-13068 Filed 5-30-85; 8:45 am]

BILLING CODE 6720-01-M

[No. AC-437]

Hampton Co-Operative Bank, Hampton, NH; Final Action Approval of Conversion Application

Dated: May 24, 1985.

Notice is thereby given that on May 9, 1985, the Office of General Counsel of the Federal Home Loan Bank Board, acting pursuant to the authority delegated to the General Counsel or his designee, approved the application of Hampton Co-Operative Bank, Hampton, New Hampshire, for permission to convert to the stock form of organization. Copies of the application are available for inspection at the Secretariat of said Corporation, 1700 G Street NW., Washington, D.C. 20552 and at the Office of the Supervisory Agent of said Corporation at the Federal Home Loan Bank of Boston, One Federal Street, 30th Floor, Boston, Massachusetts 02110.

By the Federal Home Bank Board.

Jeff Sconyers,

Secretary.

[FR Doc. 85-13067 Filed 5-30-85; 8:45 am]

BILLING CODE 6720-01-M

[No. AC-439]

Lawrence Federal Savings, F.A., Lawrence, KS; Final Action Approval of Conversion Application

Dated: May 24, 1985.

Notice is hereby given that on May 13, 1985, the Office of General Counsel of the Federal Home Loan Bank Board, acting pursuant to the authority delegated to the General Counsel or his designee, approved the application of Lawrence Federal Savings, F.A., Lawrence, Kansas, for permission to convert to the stock form of organization. Copies of the application are available for inspection at the Secretariat of said Corporation, 1700 G Street NW., Washington, D.C. 20552 and at the Office of the Supervisory Agent of said Corporation at the Federal Home Loan Bank of Topeka, Post Office Box 828, Topeka, Kansas 66601.

By the Federal Home Bank Board.

Jeff Sconyers,

Secretary.

[FR Doc. 85-13065 Filed 5-30-85; 8:45 am]

BILLING CODE 6720-01-M

[No. AC-438]

Metropolitan Savings & Loan Association, Dallas, TX; Final Action Approval of Conversion Application

Dated: May 24, 1985.

Notice is hereby given that on May 9, 1984, the Office of General Counsel of the Federal Home Loan Bank Board, acting pursuant to the authority delegated to the General Counsel or his designee, approved the application of Metropolitan Savings and Loan Association, Dallas, Texas, for permission to convert to the stock form of organization. Copies of the application are available for inspection at the Secretariat of said Corporation, 1700 G Street NW., Washington, D.C. 20552 and at the Office of the Supervisory Agent of said Corporation at the Federal Home Loan Bank of Dallas, 500 East John Carpenter Freeway, P.O. Box 619026, Dallas/Fort Worth, Texas 75261-9026.

By the Federal Home Loan Bank Board.
Jeff Sconyers,
Secretary.
[FR Doc. 85-13066 Filed 5-30-85; 8:45 am]
BILLING CODE 6720-01-M

[No. AC-440]

Brunswick Federal Savings, F.A., Brunswick, ME; Final Action Approval of Conversion Application

Date: May 24, 1985.

Notice is hereby given that on April 12, 1985, the Office of General Counsel of the Federal Home Loan Bank Board, acting pursuant to the authority delegated to the General Counsel or his designee, approved the application of Brunswick Federal Savings, F.A., Brunswick, Maine, for permission to convert to the stock form of organization. Copies of the application are available for inspection at the Secretariat of said Corporation, 1700 G Street, NW., Washington, D.C. 20552, and at the Office of the Supervisory Agent of said Corporation at the Federal Home Loan Bank of Boston, One Federal Street, 30th Floor, Boston, Massachusetts, 02110.

By the Federal Home Loan Bank Board.
Jeff Sconyers,
Secretary.
[FR Doc. 85-13064 Filed 5-30-85; 8:45 am]
BILLING CODE 6720-01-M

FEDERAL MARITIME COMMISSION

[Docket No. 85-16]

Failure of Licensed Ocean Freight Forwarders To Comply With the Anti-Rebate Certification Filing Requirement; Order of Investigation and Hearing

Section 15(b) of the Shipping Act of 1984 (1984 Act) (46 U.S.C. app. 1714) authorizes the Federal Maritime Commission to require ocean freight forwarders to certify that they have adopted and promulgated policies to combat illegal rebating in the United States' foreign commerce.[1] The Commission has implemented this authority by adopting a regulation, 46 CFR 510.25, that requires each ocean freight forwarder to make its anti-rebate certification by March 1st of each year.

Extensive efforts have been made to publicize this year's anti-rebate certification requirements to the forwarding industry. On October 18, 1984, the Office of Freight Forwarders mailed to each licensee a copy of the Commission's revised forwarder rules implementing the 1984 Act. A transmittal letter included with the revised rules made specific mention that forwarder anti-rebate certifications for 1985 were due on or before March 1, 1985. On January 25, 1985, the Commission issued News Release No. 85-3, entitled "FRT FWDR Deadlines for Anti-Rebate Certificates." The News Release reminded all licensees that March 1, 1985 was the deadline for submitting the annual anti-rebate certification and noted that failure to file the certification on time could subject a licensee to the statutory penalty of $5,000.00 per day.

Finally, on February 15, 1985, the Commission's Office of Freight Forwarders issued a Notice again reminding licensees of the impending deadline for filing the anti-rebate certification. The Notice was mailed to each licensee who had not already filed the required anti-rebate certification. The Notice also transmitted a copy of the appropriate certification form.

Despite this extensive effort, the ocean freight forwarders identified in Appendix A to this Order do not appear to have filed their anti-rebate certifications for the current year. As a result, these forwarders are each potentially liable for a civil penalty of $5,000 per day from March 1st of this year, an amount that, as of the date of this Order, exceeds three hundred thousand dollars ($300,000) per forwarder. Moreover, these forwarders have placed their license to operate as an ocean freight forwarder in jeopardy. Section 19 of the Shipping Act of 1984, 46 U.S.C. app. 1718(b), as well as the Commission's implementing regulations, 46 CFR 510.16 (1984) provide that the Commission shall suspend or revoke a forwarder's license if the Commission finds, after notice and hearing, that a forwarder has willfully failed to comply with a provision of the 1984 Act or the Commission's implementing regulations.[2] It would appear that the respondents named herein have willfully failed to comply with the duly published and noticed certification requirements.

The severe penalties that can result from a violation of section 15 reflects the importance that Congress has attached to the certification program as a means to combat unlawful rebating in the United States' foreign commerce. The Commission does not believe, however, that Congress intended the Commission to assess penalties and revoke or suspend licenses in every instance, particularly if there are mitigating circumstances surrounding the violation. In this regard, the Commission understands that there may be some uncertainty concerning its certification program, notwithstanding the extensive publicity it has received. Accordingly, the Commission will provide the Respondents named in this Order a final opportunity to conform to the Commission's certification requirements and avoid the consequences that may occur should the Commission find them in violation of this requirement. The Commission will therefore allow the Respondents 45 calendar days from the date of this Order to file their anti-rebate certifications.[3] Respondents who file certifications within this period with the Office of Freight Forwarders shall be dismissed from this proceeding with prejudice upon that Office's determination that Respondent has substantially complied with the requirement. The proceeding shall continue as to the Respondents who fail to file a certificate during this grace period.

Therefore, it is ordered, that pursuant to sections 11, 15 and 19 of the Shipping Act of 1984 (46 U.S.C. app. 1710, 1714 and 1718) a proceeding is hereby instituted to determine whether the Respondents identified in Appendix A to this Order:

(1) Have violated section 15(b) of the Shipping Act of 1984 (46 U.S.C. app. 1714(b)) and 46 CFR 510.25 by failing to file an anti-rebate certification by March 1, 1985;

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[1] Section 15(b) provides:

(b) CERTIFICATION.—The Commission shall require the chief executive officer of each common carrier and, to the extent it deems feasible, may require any shipper, shippers' association, marine terminal operator, *ocean freight forwarder*, or broker to file a periodic written certification made under oath with the Commission attesting to—

(1) A policy prohibiting the payment, solicitation, or receipt of any rebate that is unlawful under the provisions of this Act;

(2) The fact that this policy has been promulgated recently to each owner, officer, employee, and agent thereof;

(3) The details of the efforts made within the company or otherwise to prevent or correct illegal rebating; and

(4) A policy of full cooperation with the Commission in its efforts to end those illegal practices.

Whoever fails to file a certificate required by the Commission under this subsection is liable to the United States for a civil penalty of not more than $5,000 for each day the violation continues. (Emphasis supplied).

[2] Section 19(b) of the Shipping Act of 1984 provides: The Commission shall, after notice and hearing, suspend or revoke a license if it finds that the ocean freight forwarder is not qualified to render forwarding services or that it *willfully failed to comply with a provision of this Act or with a lawful order, rule, or regulation of the Commission.* (46 U.S.C. app. 1718(b)).

[3] A blank certification form is attached to this order as Appendix B.

(2) Should be assessed civil penalties for the violations found and, if so, the amount of such penalty; and/or

(3) Should have their ocean freight forwarder license suspended or revoked for willfully violating the Shipping Act of 1984 and the Commission's implementing regulations.

It is further ordered, that any Respondent that files its anti-rebate certificate within 45 calendar days of the date of this Order shall, upon the advice of the Office of Freight Forwarders through the Bureau of Hearing Counsel, be dismissed by the Presiding Officer as a party to this proceeding;

It is further ordered, that a public hearing be held in this proceeding and that the matter be assigned for hearing and decision by an Administrative Law Judge of the Commission's Office of Administrative Law Judges at a date and place to be hereafter determined by the Presiding Administrative Law Judge, but no later than 225 days after service of this Order.

The hearing shall include oral testimony and cross-examination in the discretion of the Presiding Officer only upon a proper showing that there are genuine issues of material fact that cannot be resolved on the basis of sworn statements, affidavits, depositions, or other documents or that the nature of the matters in issue is such that an oral hearing and cross-examination are necessary for the development of an adequate record;

It is further ordered, that in accordance with Rule 42 of the Commission's Rules of Practice and Procedure (46 CFR 502.42), the Bureau of Hearing Counsel shall be a party to this proceeding;

It is further ordered, that the period for commencing discovery as provided in 46 CFR 502.201 shall not begin until the 45 day grace period provided for in this Order has expired;

It is further ordered, that notice of this Order be published in the **Federal Register**, and a copy be served upon all parties of record;

It is further ordered, that any person, other than parties of record, having a interest and desiring to participate in this proceeding shall file a petition for leave to intervene in accordance with Rule 72 of the Commission's Rules of Practice and Procedure (46 CFR 502.72);

It is further ordered, that all future notices, orders, and/or decisions issued by or on behalf of the Commission in this proceeding, including notice of the time and place of hearing or prehearing conference, shall be mailed directly to all parties of record;

It is further ordered, that all documents submitted by any party of record in this proceeding shall be filed in accordance with Rule 118 of the Commission's Rules of Practice and Procedure (46 CFR 502.118), as well as being mailed directly to all parties of record, however, Respondents who file anti-rebate certifications in this proceeding need not serve such certifications on other Respondents;

Finally, it is ordered, that pursuant to the terms of Rule 61 of the Commission's Rules of Practice and Procedure (46 CFR 502.61), the initial decision of the Presiding Officer in this proceeding shall be issued by May 28, 1986 and the final decision of the Commission shall be issued by September 29, 1986. By the Commission.

Bruce A. Dombrowski,

Acting Secretary.

Appendix A—Licensed Ocean Freight Forwarders Who Failed, To File Anti-Rebate Certifications

John W. Newton, Jr., 470 Orleans Street #601, Beaumont, TX 77704
J. W. Allen & Co., Inc., 414 Whitney Bldg., New Orleans LA 70130
Transoceanic Shipping Co., 1505 Intl Trade Mart, New Orleans, LA 70130
Surface Freight Corp., 120 Tokenecke Road, Darren, CT 06820
Zanelli Forwarding, Inc., 512 West Cross Timbers, Houston, TX 77018
Copeland Co., Inc., P.O. Box 13064, Lauderdale, FL 33316
Carson M. Simon & Co., 209–211 Chestnut Street, Philadelphia, PA 19106
Charles D. Sciaroni Co., 111 Pine Street, San Francisco, CA 94111
Reliable Cargo Shipping, 184 Kent Avenue, Brooklyn, NY 11211
Overseas Fwdrs., Inc., 29 Broadway #1607, New York, NY 10006
Hasman & Baxt, Inc., 71 Broadway, New York, NY 10006
Abarim Frt Service, Inc., 120 Kero Road, Carlstadt, NJ 07072
Robert J. McCracken & Son, 208 Michigan Bldg., Muskegon, MI 49443
Sesko Intl, Inc., 4715 N.W. 72nd Ave., Miami, FL 33166
Adolfo F. Luchessi, Pier #6 Box 2092, San Juan, PR 00903
Robert E. Kelly, 8600 La Salle Road, Baltimore, MD 21204
Helstrom Intl, Inc., 7 Dey St. #1426, New York, NY 10007
Interproject Shipping Service, One World Trade Ctr. #7751, New York, NY 10048
Ven-Air Service, Inc., 2700 Green Road #I–3, Houston, TX 77060
Profit Freight Systems, P.O. Box 388, Valley Stream, NY 11582
Alfa Aerofreight Service, Inc., 7797 N.W. 32nd Street, Miami Springs, FL 33122
Sentry Air Freight Corp., Sentry Ocean Services, 2970 N.W. 75th Avenue, Miami, FL 33122
Robert F. Barnes, 111 S. Bridge Avenue, Hildalgo, TX 78557
Reliance Forwarding Corp., 4303 Ludlow Street, Philadelphia, PA 19104
B.B.C. International, 426 West Florence Avenue, Inglewood, CA 90301
Ki Tai Chang, K-C Intl. Frt. Fwdrs., 605 Market Street #609, San Francisco, CA 94105
Orlando A. Puig, Houston Export Intl, 1520 Texas Avenue #502, Houston, TX 77002
Donnell Customs Services, 2780 Des Plaines Avenue, Des Plaines, IL 60018
Stair Cargo Services, Inc., 9020 N.W. 12th Street, Miami, FL 33172
Schirmer Intl, Inc., 1804 No. Mitchell Ave., Arlington Heights, IL 60004
Gemini Export Services, 7262 N.W., 33rd Street, Miami, FL 33148
Universal Sea/Air Express, 5534 Armour Drive, Houston, TX 77020
James W. Haney, Standard Shipping Co., 205 Meadow Lea Drive, Houston, TX 77022
Victor M. Robles, Vicel International, 582 Market St. #1109, San Francisco, CA 94104
Bethlehem Forwarding Co., 261 S.W. 6th Street, Miami, FL 33131
Eduardo U. Lopez, Federal Freight Forwarder, 1606 S.W. 101st Avenue, Miami, FL 33165
Mateus Shipping Corp., 61 Hilton Avenue, Garden City, NY 11530
Agency Intl. Fwdg., Inc., P.O. Box 522086, Miami, FL 33152
Inter Traders Cargo Agency, 7207 N.W. 32nd Street, Miami, FL 33126
Forwarders Intl. Ltd., 165 Armstrong Road, Des Plaines, IL 60018
Taub Hummel & Schnall, Inc., 9610 So. La Cienega Blvd., Inglewood, CA 90301
North Atlantic Frt. Fwdrs., 148–23 94th Avenue, Jamaica, NY 11435
Roy Leon & Co., Inc., 6470 N.W. 20th St., Miami, FL 33126
Keihin America Corp., 1700 W. Walnut Pkwy., Los Angeles, CA 90220
Horace L. Pietravalle, P.O. Box 24842, Tampa, FL 33623
Specialty Packing Co., Inc., 11521 Anabel Street, Garden Grove, CA 92643
Uniport Shipping Corp., 55 Amity Street, Jersey City, NJ 07304
Transworld Freight System, 1651 W. 37th Street #410, Hialeah, FL 33012
China Interocean Transport, One World Trade Ctr. #5371, New York, NY 10048

National Cargo Serv., Inc., 4741 N.W. 72nd Ave., Miami, FL 33166
Shigehiro Uchida, Jupiter Forwarding Co., 830-A Mission Street, South Pasadena, CA 91030
Bekins Moving & Storage, Northwest Forwarders, 9401 Aurora Ave. So., Seattle, WA 98103
Scan-Shipping, Inc., 116 John St. #320, New York, NY 10038
Teodomiro J. Perez, Perez International, 1520 Texas Ave., #333, Houston, TX 77002
World Transportation Serv., WTS, Inc., 415 No. Neil Armstrong Road, Salt Lake City, UT 84116
Export Services, Inc., 204 East Capital Drive, Milwaukee, WI 53212
Almac Shipping Co., Inc., 9620 S. La Cienega Blvd., Inglewood, CA 90301
Mighal Intl., Inc., 361 Swift Avenue, So. San Francisco, CA 94080
Kraus Intl., Inc., 1547 Arnheim Ct., El Cajon, CA 92021
Condor Shipping Co., Inc., 35-33 149th Street, Flushing, NY 11354
Maria A. White, A-1 Forwarding Co., P.O. Box 60131-AMF, Houston, TX 77205
Chem Group, Inc., 30 Lincoln Plaza #25M, New York, NY 10023
Empire Frt. Fwdg., Inc., 17 Direnzo Ct., Staten Island, NY 10309
La Flor De Mayo Express, 311 Bruckner Blvd., Bronx, NY 10454
World Express Lines, Inc., 1755 West Walnut Pkwy., Compton, CA 90220
Klause Intl., Inc., 1235 No. Loop West #415, Houston, TX 77008
Jean H. Johnson, JIFF, 5997 Larue Green Camp Road, New Bloomington, OH 43341
B.V.T. America, Inc., 2420 E. Oakton St., Arlington Heights, IL 60005
Soo Bok Kang, Oceangate Fwdg. Co., 444 West Ocean Blvd. #612, Long Beach, CA 90802
ABCO Freight Fwdrs., Inc., 9442 N.W. 13th St., Bay 60, Miami, FL 33172
Ben & Bros. Fwdg. Corp., 147-48 182nd Street, Jamaica, NY 11434
Peter R. Allen, World Freight Services, 1235 No. Loop West #720, Houston, TX 77008
S-D-C Air Freight, Inc., Sea Masters Ocean Freight, 6080 N.W. 84th Avenue, Miami, FL 33166
Midwest Overseas Trading, 6416 West Capital Drive, Madison, WI 53216

Appendix B

FMC Lic. No.———
(Name of Filing Firm)———

Certification of Policies and Efforts To Combat Rebating in the Foreign Commerce of the United States

Pursuant to the provisions of section 15(b) of the Shipping Act of 1984, and Federal Maritime Commission regulations promulgated pursuant thereto, 46 CFR Parts 510 and 582,

I, ———, Chief Executive Officer of (name of firm) ———, holder of valid ocean freight forwarder license #——, state under oath that:

1. It is the policy of (name of firm) ——— to prohibit the participation of said freight forwarder in the payment, solicitation, or receipt of any rebate, directly or indirectly, to or by any carrier or shipper, which is unlawful under the provisions of the Shipping Act of 1984.

2. Each owner, officer, employee and agent of (name of firm) was notified or reminded of this policy on or before ——— of the present year.

3. (Set forth the details of measures instituted within the filing firm or otherwise to prohibit participation in the payment of illegal rebates in the foreign commerce of the United States.)

4. (Name of firm) ——— affirms that it will fully cooperate with the Commission in its investigation of suspected rebating in United States foreign trades.

Signature ———
Title ———

Subscribed to and sworn before me this ——— day of ———, 19—.

Notary Public ———

[FR Doc. 85-13033 Filed 5-30-85; 8:45 am]
BILLING CODE 6730-01-M

Ocean Freight Forwarder License; Interstate International, Inc., et al.; Applicants

Notice is hereby given that the following applicants have filed with the Federal Maritime Commission applications for licenses as ocean freight forwarders pursuant to section 19 of the Shipping Act, 1984 (46 U.S.C. app. 1718 and 46 CFR Part 510).

Persons knowing of any reason why any of the following applicants should not receive a license are requested to communicate with the Director, Bureau of Tariffs, Federal Maritime Commision, Washington, D.C. 20573.

Interstate International, Inc., 5801 Rolling Road, Springfield, VA 22152
Officers: Arthur E. Morrissette, President, Arthur E. Morrissette, Jr., Vice President, Donald J. Morrissette, Vice President/Secretary, Kenneth Morrissette, Vice President/Secretary, Mike M. Thielke, Vice President
Intercontinental Freight Service Corporation, 55 Shoreline Drive, Ware, MA 01082,
Officer: Fred Szlapinski, President/Treasurer/Director
World Shipping Inc., 5 Marine View Plaza, Hoboken, NJ 07030
Officers: Vincent Wortman, President/Director, Cattelo DeMeglio, V.P./Secretary/Treasurer/Director, Genevieve DeMeglio, Director,
Archer Freight Systems, Inc., 10419 Gulfdale, San Antonio, TX 78216
Officers: Robert H. Erdrich, President/Director, Joel H. Switsky, Vice President/Director
Iris Montano-Llerena d.b.a. I.M.L. International Freight Forwarding Co. 531 East 37th Street, Hialeah, FL 33013
Baltimore Shipping Co., Inc., Dunkalk Marine Terminal, 2700 Broening Highway, 3rd and North Service Road, Baltimore, MD 21222
Officers: Samuel P. Genet, President/Director, Ronald E. Timm, Secretary/Treasurer/Director, Robert W. Zittle, Sr., Assistant Secretary
Columbia Industries Corp., 1660 So. Amphlett Blvd., San Mateo, CA 94402
Officers: Linus K. Hahn, President; Soojung S. Hahn, John Y. Park

Dated: May 28, 1985.

By the Federal Maritime Commission.

Bruce A. Dombrowski,

Acting Secretary.

[FR Doc. 85-13035 filed 5-30-85; 8:45 am]
BILLING CODE 6730-01-M

Ocean Freight Forwarder License, E.D.S. International Shipping Corp. et al.; Revocations

Notice is hereby given that the following ocean freight forwarder licenses have been revoked by the Federal Maritime Commission pursuant to section 19 of the Shipping Act of 1984 (46 U.S.C. app. 1718) and the regulations of the Commission pertaining to the licensing of ocean freight forwarders, 46 CFR Part 510.

License Number: 2563
Name: E.D.S. International Shipping Corp.
Address: 506-528 Cozine Avenue, Brooklyn, NY 11208
Date Revoked: May 4, 1985
Reason: Failed to maintain a valid surety bond

License Number: 1103
Name: Capable Forwarding Corp.
Address: 54 Stone Street, New York, NY 10004
Date Revoked: May 6, 1985
Reason: Surrendered license voluntarily

License Number: 2203-R
Name: McLean International, Inc.
Address: 32 South Street, Baltimore, MD 21202
Date Revoked: May 9, 1985
Reason: Voluntarily requested revocation

License Number: 1105
Name: A.F. Burstrom & Son, Inc.
Address: 1250 D Rankin, Troy, MI 48084
Date Revoked: May 15, 1985
Reason: Failed to maintain a valid surety bond
License Number: 1680
Name: Transway, Inc.
Address: P.O. Box 522458, Miami, FL 33152
Date Revoked: May 15, 1985
Reason: Failed to maintain a valid surety bond
License Number: 887
Name: Dumont Shipping Co., Inc.
Address: 21 West Street, New York, NY 10006
Date Revoked: May 18, 1985
Reason: Failed to maintain a valid surety bond
License Number: 2777
Name: Airmobil Freight Corporation
Address: 4825 North Scott Street, #77/6, Schiller Park, IL 60176
Date Revoked: May 18, 1985
Reason: Failed to maintain a valid surety bond

Robert G. Drew,

Director, Bureau of Tariffs.

[FR Doc. 85-13036 Filed 5-30-85; 8:45 am]

BILLING CODE 6730-01-M

Agreement(s) Filed

The Federal Maritime Commission hereby gives notice of the filing of the following agreement(s) pursuant to section 5 of the Shipping Act of 1984.

Interested parties may inspect and obtain a copy of each agreement at the Washington, D.C. Office of the Federal Maritime Commission, 1100 L Street, NW., Room 10325. Interested parties may submit comments on each agreement to the Secretary, Federal Maritime Commission, Washington, D.C. 20537, within 10 days after the date of the **Federal Register** in which this notice appears. The requirements for comments are found in § 572.603 of Title 46 of the Code of Federal Regulations. Interested persons should consult this section before communicating with the Commission regarding a pending agreement.

Agreement No.: 224-010759.
Title: San Juan Terminal Agreement.
Parties:
The Puerto Rico Ports Authority (Authority)
Crowley Towing and Transportation Company (Crowley)

Synopsis: This agreement provides that the Authority will grant to Crowley exclusive rights in the use of certain premises at Pier No. 10 San Juan, Puerto Rico. Crowely shall pay wharfage and dockage charges assessed by the Authority. The facilities shall be used for the maintenance, mooring, berthing, storage, repair and alteration of vessels, and for other purposes as listed in the agreement. The term of the agreement shall be for ten years.

Agreement No.: 222-010760.
Title: Los Angeles Terminal Agreement.
Parties:
The City of Los Angeles (City)
American President Lines, Ltd. (APL)

Synopsis: Agreement No. 222-010760 entitles APL to receive credit against existing terminal revenues for the cost of constructional improvements made by APL to which the City has previously given its consent under Agreement No. T-3938. The improvements consists of reorganizing the order of the cranes, and the construction of crane power trenches at Berth No. 126 in the Port of Los Angeles, to allow APL to use the PACECO crane as well as the four cranes that they already own. The City will reimburse APL a credit in the amount of $116,641 for the improvements.

By Order of the Federal Maritime Commission.

Dated: May 28, 1985.

Bruce A. Dombrowski,

Acting Secretary.

[FR Doc. 85-13083 Filed 5-30-85; 8:45 am]

BILLING CODE 6730-01-M

FEDERAL RESERVE SYSTEM

Bankers Trust New York Corp. et al.; Applications To Engage de Novo in Permissible Nonbanking Activities

The companies listed in this notice have filed an application under § 225.23(a)(1) of the Board's Regulation Y (12 CFR 225.23(a)(1)) for the Board's approval under section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.21(a) of Regulation Y (12 CFR 225.21(a)) to commence or to engage *de novo*, either directly or through a subsidiary, in a nonbanking activity that is listed in § 225.25 of Regulation Y as closely related to banking and permissible for bank holding companies. Unless otherwise noted, such activities will be conducted throughout the United States.

Each application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question must be accompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

Unless otherwise noted, comments regarding the applications must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than June 20, 1985.

A. **Federal Reserve Bank of New York** (A. Marshall Puckett, Vice President), 33 Liberty Street, New York, New York 10045:

1. *Bankers Trust New York Corporation*, New York, New York; to engage *de novo* through its subsidiary, Private Clients Group, Inc., in activities generally performed by a trust company in the manner authorized by federal or state law, including activities of a fiduciary, agency or custodial nature. These activities would be conducted in the State of Connecticut.

B. **Federal Reserver Bank of Chicago** (Franklin D. Dreyer, Vice President) 230 South LaSalle Street, Chicago, Illinois 60690:

1. *Northwest Suburban Bancorp, Inc.*, Mount Prospect, Illinois; to engage *de novo* through its subsidiary, NSB Finance, Inc., Mount Prospect, Illinois, in making and servicing loans and leasing personal or real property.

Board of Governors of the Federal Reserve System, May 23, 1985.

William W. Wiles,

Secretary of the Board.

[FR Doc. 85-13025 Filed 5-30-85; 8:45 am]

BILLING CODE 6210-01-M

Commonwealth Bancshares Corp. et al.; Formation of; Acquisition by; and Mergers of Bank Holding Companies

The companies listed in this notice have applied for the Board's approval under section 3 of the Bank Holding Company Act (12 U.S.C. 1842) and § 225.14 of the Board's Regulation Y (12 CFR 225.14) to become a bank holding company or to acquire a bank or bank holding company. The factors that are

considered in acting on the applications are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

Each application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing to the Reserve Bank or to the offices of the Board of Governors. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Unless otherwise noted, comments regarding each of these applications must be received not later than June 21, 1985.

A. **Federal Reserve Bank of Philadelphia** (Thomas K. Desch, Vice President), 100 North 6th Street, Philadelphia, Pennsylvania 19105:

1. *Commonwealth Bancshares Corporation,* Williamsport, Pennsylvania; to acquire 24.99 percent of the voting shares of Commonwealth National Financial Corporation, Harrisburg, Pennsylvania, thereby indirectly acquiring Commonwealth National Bank; and to acquire 24.99 percent of the voting shares of Heritage Financial Services Corpration, Lewistown, Pennsylvania, thereby indirectly acquiring The Russell National Bank.

B. **Federal Reserve Bank of Atlanta** (Robert E. Heck, Vice President), 104 Marietta Street NW., Atlanta, Georgia 30303:

1. *Commerce Union Corporation,* Nashville, Tennessee; to merge with Tennessee Eastern Bancshares, Inc., Oak Ridge, Tennessee, thereby indirectly acquiring Energy Bank, Oak Ridge, Tennessee.

2. *Consorcio Invesionista Marcantil Y Agricola, C.A.,* Caracus, Venezuela and *Banco Mercantil, C.A.,* Caracas, Venezuela; to become a bank holding company by acquiring 100 percent of the voting shares of Commercebank, N.A., Miami, Florida.

C. **Federal Reserve Bank of Chicago** (Franklin D. Dreyer, Vice President), 230 South LaSalle Street, Chicago, Illinois 60690:

1. *Mitchell Bank Holding Corporation,* Milwaukee, Wisconsin; to become a bank holding company by acquiring 100 percent of the voting shares of Mitchell Street State Bank, Milwaukee, Wisconsin.

2. *M. S. Investment Co.,* Milwaukee, Wisconsin; to acquire 49.7 percent of the voting shares of Mitchell Bank Holding Corporation, Milwaukee, Wisconsin, thereby indirectly acquiring Mitchell Street State Bank, Milwaukee, Wisconsin.

D. **Federal Reserve Bank of Dallas** (Anthony J. Montelaro, Vice President), 400 South Akard Street, Dallas, Texas 75222:

1. *Freeman Bancstock Investments,* Irving, Texas; to become a bank holding company by acquiring 100 percent of the voting shares of Inwood Bancshares, Inc., Dallas, Texas, thereby indirectly acquiring Inwood National Bank of Dallas, Dallas, Texas. In this regard, Inwood Holding Corporation, Irving, Texas; has also applied to acquire 100 percent of the voting shares of Inwood Bancshares, Inc., thereby indirectly acquiring Inwood National Bank of Dallas, Dallas, Texas.

Board of Governors of the Federal Reserve System, May 24, 1985.

William W. Wiles,

Secretary of the Board.

[FR Doc. 85-13026 Filed 5-30-85; 8:45 am]

BILLING CODE 6210-01-M

J.P. Morgan & Co. Inc., et al.; Applications To Engage de Novo in Permissible Nonbanking Activities

The companies listed in this notice have filed an application under § 225.23(a)(1) of the Board's Regulation Y (12 CFR 225.23(a)(1)) for the Board's approval under section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.21(a) of Regulation Y (12 CFR 225.21(a)) to commence or to engage *de novo,* either directly or through a subsidiary, in a nonbanking activity that is listed in § 225.25 of Regulation Y as closely related to banking and permissible for bank holding companies. Unless otherwise noted, such activities will be conducted throughout the United States.

Each application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question must be accompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

Unless otherwise noted, comments regarding the applications must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than June 17, 1985.

A. **Federal Reserve Bank of New York** (A. Marshall Puckett, Vice President) 33 Liberty Street, New York, New York 10045:

1. J.P. Morgan & Co. Incorporated, New York, New York; to engage through its subsidiaries, J.P. Morgan Securities Inc., and J.P. Morgan Municipal Finance Inc., in underwriting and dealing in obligations of the United States and other obligations that state member banks of the Federal Reserve system may be authorized to underwrite and deal in under 12 U.S.C. 24 and 335, including bankers' acceptances and certificates of deposit; and underwriting and dealing in general obligations of states and their political subdivisions and other municipal obligations that state member banks may be authorized to underwrite and deal in under the foregoing statutes. Any transactions between applicants' subsidiary bank, Morgan Guaranty Trust Co. of New York, and J.P. Morgan Securities, Inc. or J.P. Morgan Municipal Finance, Inc. will conform to the provisions of section 23A of the Federal Reserve Act. Comments on this application must be received not later than June 13, 1985.

B. **Federal Reserve Bank of Chicago** (Franklin D. Dreyer, Vice President) 230 South LaSalle Street, Chicago, Illinois 60690.

1. *Arthur Bankshares Corp.,* Arthur, Illinois; to engage *de novo* directly in the sale of accident and health and credit life insurance. These activities would be conducted in the Illinois counties of Moultrie, Douglas, and Coles.

C. **Federal Reserve Bank of San Francisco** (Harry W. Green, Vice President) 101 Market Street, San Francisco, California 94105:

1. *Pacific Regency Bancorp,* El Toro, California; to engage *de novo* through its subsidiary, Pacific Regency Courier Service, El Toro, California, in providing courier services for checks, commercial papers, documents, and written instruments (excluding currency or bearer-type negotiable instruments) that

are exchanged among banks and financial institutions; and audit and accounting media of a banking or financial nature and other business records and documents used in processing such media.

2. *Valley Utah Bancorporation*, Salt Lake City, Utah; to engage *de novo* through its subsidiary, Valley Utah Insurance Company Inc., Salt Lake City, Utah, in acting as principal, agent or broker for insurance directly related to an extension of credit by any of the subsidiaries of Valley Utah Bancorporation and for which the insurance is limited to assuring the repayment of the outstanding balance due on a specific extension of credit by a subsidiary of the bank holding company in event of the death or disability of the debtor; and reinsurer on all policies of insurance. These activities would be conducted in the State of Utah.

Board of Governors of the Federal Reserve System, May 24, 1985.

William W. Wiles,

Secretary of the Board.

[FR Doc. 85-13027 Filed 5-30-85; 8:45 am]

BILLING CODE 6210-01-M

NEB Corp. et al.; Formations of; Acquisitions by; and Mergers of Bank Holding Companies

The companies listed in this notice have applied for the Board's approval under section 3 of the Bank Holding Company Act (12 U.S.C. 1842) and § 225.14 of the Board's Regulation Y (12 CFR 225.14) to become a bank holding company or to acquire a bank or bank holding company. The factors that are considered in acting on the applications are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

Each application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing to the Reserve Bank or to the offices of the Board of Governors. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Unless otherwise noted, comments regarding each of these applications must be received not later than June 20, 1985.

A. **Federal Reserve Bank of Chicago** (Franklin D. Dreyer, Vice President) 230 South LaSalle Street, Chicago, Illinois 60690:

1. *NEB Corporation*, Fond du Lac, Wisconsin; to acquire 90.8 percent of the voting shares of American Bank of Fond du Lac, Fond du Lac, Wisconsin.

2. *Ontario Bancorporation, Inc.*, Ontario, Wisconsin; to acquire 80 percent of the voting shares of Genoa State Bank, Genoa, Wisconsin.

B. **Federal Reserve Bank of Dallas** (Anthony J. Montelaro,, Vice President) 400 South Akard Street, Dallas, Texas 75222:

1. *Bancorp of North Texas*, Sherman, Texas; to become a bank holding company by acquiring 80 percent of the voting shares of First National Bank, Sherman, Texas.

Board of Governors of the Federal Reserve System, May 24, 1985.

William W. Wiles,

Secretary of the Board.

[FR Doc. 85-13028 Filed 5-30-85; 8:45 am]

BILLING CODE 6210-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Office of the Secretary

Agency Forms Submitted to the Office of Management and Budget for Clearance

Each Friday the Department of Health and Human Services (HHS) publishes a list of information collection packages it has submitted to the Office of Managment and Budget (OMB) for clearance in compliance with the Paperwork Reduction Act (44 U.S.C. Chapter 35). The following are those packages submitted to OMB since the last list was published on May 24, 1985.

Public Health Service

Alcohol Drug Abuse and Mental Health Administration

Subject: Drug Abuse Warning Network—Extension (0930-0078)
Respondents: State/local governments, businesses, non-profit institutions

Office of the Assistant Secretary for Health

Subject: 1987 National Medical Expenditure Survey (NMES)—Concept Clearance—New
Respondents: Individuals, small businesses

Food and Drug Administration

Subject: Reporting and Recordkeeping Requirements for Electronic Products—Under Pub. L. 90-602—General Requirements—Reinstatement (0910-0025)
Respondents: Businesses
Subject: Reporting and Recordkeeping Requirements for Electronic Products Under Pub. L. 90-602—Specific Product Requirements—Existing Collection
Respondents: Small and for-profit businesses

Centers for Disease Control

Subject: Pilot Study to Evaluate the Venereal Disease National Hotline—New
Respondents: Individuals
OMB Desk Officer: Fay S. Iudicello

Social Security Administration

Subject: Time Report of Personal Services for Disability Programs—SSA 4514—Existing Collection
Respondents: State Disability Determination Staffs
Subject: Application for Search of Census Records for Proof of Age—SSA 1535—Extension (0960-0097)
Respondents: Individuals
Subject: Integrated Review Schedule—SSA 4357—Revision (0960-0313)
Respondents: States
OMB Desk Officer: Judy A. McIntosh

Health Care Financing Administration

Subject: Integrated Review Schedule—HCFA 301—Revision (0938-0246)
Respondents: States
OMB Desk Officer: Fay S. Iudicello

Copies of the above information collection clearance packages can be obtained by calling the HHS Reports Clearance Office on 202-245-6511.

Written comments and recommendations for the proposed information collections should be sent directly to the appropriate OMB Desk Officer designated above at the following address:

OMB Reports Management Branch, New Executive Office Building, Room 3208, Washington, D.C. 20503. ATTN: (name of OMB Desk Officer)

Dated: May 24, 1985.

Wallace O. Keene,

Acting Deputy Assistant Secretary for Management Analysis and Systems.

[FR Doc. 85-13102 Filed 5-30-85; 8:45 am]

BILLING CODE 4150-04-M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

Intent To Hold Public Scoping Meetings and To Prepare an Environmental Impact Statement (EIS) on Industrial Resources, Inc. (IRI) Mine Plan for a Commercial Scale Nahcolite Solution Mine in Rio Blanco County, CO

AGENCY: Bureau of Land Management, Interior.

ACTION: Public scoping meetings and notice to prepare an EIS.

SUMMARY: This notice advises the public that the Bureau of Land Management (BLM) intends to hold meetings to gather information and seek assistance in defining the range of issues and concerns for preparation of an EIS on Industrial Resources, Inc. Mine Plan for development of a commercial nahcolite solution mine. This notice is made in accordance with the National Environmental Policy Act (NEPA) and the Council on Environmental Quality regulations (40 CFR 1501.7 and 1508.22) to obtain suggestions and information from other agencies and the public on the scope of issues to be addressed in the EIS. Comments and participation in this scoping process are solicited.

Public meetings will be held in Meeker and Grand Junction, Colorado. An information packet with a map showing the project location will be available upon request from the White River Resources Area (WRRA) Office at the address given below at the public meetings. Meeting dates and places are a listed below under **SUPPLEMENTAL INFORMATION.**

Oral testimony and submission of written comments will be received at the meetings or can be mailed to the White River Resource Area Office.

DATES: Public hearings will be held on June 18 and 19, 1985. Written comments will be accepted through July 1, 1985.

ADDRESS: Comments should be addresssed to William Frank, Acting Project Coordinator, Bureau of Land Management, White River Resource Area, PO Box 928, Meeker, Colorado 81641.

SUPPLEMENTARY INFORMATION: The area proposed for development of a commercial nahcolite solution mine is contained within Sections 26 and 27, Township 1 South, Range 98 West, 6th P.M., on two existing sodium leases held by IRI. Their proposed action involves a phased-approach development with initial production of nahcolite at a rate of 50,000 tons/year for the first one or two years. This production rate would increase to 125,000 tons/year in approximately the third year of operation with an expected total mine life of 30 years. The proposed project includes a well field for in-situ solution mining of nahcolite; a handling and processing plant, including evaporation ponds; and associated transportation, access and support facilities.

The EIS is intended to evaluate project alternatives as well as identify mitigation measures and special stipulations that would be incorporated into the approved plan. Alternatives that have been tentatively identified include the following: (1) The No Action Alternative, (2) the Proposed Action, (3) a 50,000 Ton/Year Alternative, and (4) a 500,000 Ton/Year Alterntive.

The purpose of the public meetings is to encourage participation from interested persons in defining significant environmental issues and concerns which may result from approval of the Proposed Action.

Public scoping meetings will be held as follows:

Place	Date	Time	Address
Meeker, CO	June 18, 1985	7:00 p.m.	BLM, WRRA Office, Two (2) miles west of Meeker, CO
Grand Junction, CO.	June 19, 1985	do	Rodeway Inn, Compass Room, 2790 Crossroads Blvd. at Horizon Drive.

Oral presentations may be made in lieu of or in addition to any written comments submitted. Each witness will be limited to a maximum of ten (10) minutes or oral presentation. The text of any prepared presentation materials may be given to the EIS Project Coordinator at the meetings.

The agenda for the scoping meetings will be as follows:

1. Introduction:

A. Purpose and Intent of the Meeting.

B. Location and Description of the Affected Area.

C. Presentation on IRI's Proposed Action.

D. Description of Issues Identified During Pre-Analysis.

E. Discussion of Possible Alternatives to be Considered in the EIS.

2. Solicitation of public comment, recommendations, and issues of major concern to be considered and addressed in the EIS. Potential issues include: Hydrology and oil shale.

Preparation of the EIS will be conducted in accordance with the requirements of the National Environmental Policy Act of 1969, Council on Environmental Quality regulations (40 CFR Part 1500), and other federal laws and regulations, and Department of the Interior policies and procedures.

Dated: May 21, 1985.

Terry L. Plummer,

Associate District Manager, Craig, Bureau of Land Management.

[FR Doc. 85-12991 Filed 5-30-85; 8:45 am]

BILLING CODE 4310-JB-M

[AA-8489-A]

Alaska Native Claims Selection; Chickaloon-Moose Creek Native Association, Inc.

In accordance with Departmental regulation 43 CFR 2650.7(d), notice is hereby given that a decision to issue conveyance under the provisions of sec. 14(a) of the Alaska Native Claims Settlement Act of December 18, 1971 (ANCSA), 43 U.S.C. 1601, 1611(a), will be issued to Chickaloon-Moose Creek Native Association, Inc. for approximately 10 acres. The lands involved are described as the SE4SW4SW4, Sec. 24, T. 20 N., R. 6 E., Seward Meridian, Alaska, and located near Ravine Lake in the vicinity of Chickaloon, Alaska.

A notice of the decision will be published once a week for four (4) consecutive weeks, in the Anchorage Daily News. Copies of the decision may be obtained by contacting the Bureau of Land Management, Alaska State Office, 701 C Street, Box 13, Anchorage, Alaska 99513. ((907) 271-5960).

Any party claiming a property interest which is adversely affected by the decision shall have until July 1, 1985 to file an appeal. However, parties receiving service by certified mail shall have 30 days from the date of receipt to file an appeal. Appeals must be filed in the Bureau of Land Management, Division of Conveyance Management (960), address identified above, where the requirements for filing an appeal can be obtained. Parties who do not file an appeal in accordance with the requirements of 43 CFR Part 4, Subpart E shall be deemed to have waived their rights.

Olivia Short,

Section Chief, Branch of ANCSA Adjudication.

[FR Doc. 85-13063 Filed 5-30-85; 8:45 am]

BILLING CODE 4310-JA-M

Availability of the Draft Northwest Area Noxious Weed Control Program Environmental Impact Statement; Idaho et al.

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of Availability of the Draft Northwest Area Noxious Weed Control Program Environmental Impact Statement (Draft EIS).

DATE: Comments will be accepted until July 31, 1985.

ADDRESS: Comments should be sent to: Noxious Weed Team Leader (935), Bureau of Land Management, P.O. Box 2965, Portland, OR 97208.

FOR FURTHER INFORMATION CONTACT: Gregg Simmons (935), Bureau of Land Management, P.O. Box 2695, Portland, OR 97208. Telephone (503) 231-6272.

SUPPLEMENTARY INFORMATION: Pursuant to section 102(2)(c) of the National Environmental Policy Act of 1969, BLM has prepared a draft EIS on Noxious Weed Control in the states of Idaho, Montana, Oregon, Washington and Wyoming.

The Proposed Action employs all methods of weed control. Average annual treatments would involve 21,100 acres of herbicide treatment, 300 acres of manual treatment, 800 acres of mechanical treatment, and 2,200 acres of biological treatment. Alternatives to the Proposed Action include no aerial application of herbicides, no herbicides, and no control action at all. The draft also includes a "worst case analysis", analyzing the worst possible effects on human health of using the herbicides 2,4-D and picloram.

A limited number of individual copies of the draft EIS may be obtained upon request to any BLM District or State Office in the five states.

Public hearings on the draft EIS will be conducted at the following times and locations:

Idaho

July 8, 1985, Monday, 1:00 p.m., Idaho State University Campus, College of Education Auditorium, 19th Ave. and Terry St., Pocatello, Idaho.

July 9, 1985, Tuesday, 1:00 p.m., Boise City Hall, Les Bois Room (3rd floor) 150 N. Capitol Blvd., Boise, Idaho.

Montana

June 24, 1985, Monday, 7:00 p.m., Miles City Community College, Room 106, 2600 Dickinson, Miles City, Montana.

June 27, 1985, Thursday, 7:00 p.m., Garnet Resource Area Office, 3255 Fort Missoula Road, Missoula, Montana.

Oregon

June 25, 1985, Tuesday, 7:00 p.m., BLM Roseburg District Office, 777 NW Garden Valley Blvd., Roseburg, Oregon.

June 27, 1985, Thursday, 7:00 p.m., BLM Baker Resource Area Office, Federal Building, Room 235, Baker, Oregon.

Washington

July 1, 1985, Monday, 7:00 p.m., Douglas County PUB, Meeting Hall, 1151 Valley Mall Parkway, East Wenatchee, Washington.

Dated: May 22, 1985.

William G. Leavell,

State Director.

[FR Doc. 85-13125 Filed 5-30-85; 8:45 am]

BILLING CODE 4310-33-M

Bureau of Reclamation

Operating Criteria and Procedures (OCAP) for 1986, Truckee and Carson River Basins, Newlands Project, NV; Intent To Prepare a Draft Environmental Impact Statement

Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969, the Department of the Interior proposes to prepare a draft environmental impact statement (EIS) on the Operating Criteria and Procedures (OCAP) for 1986 and subsequent years for the Newlands Project, Nevada. The EIS will analyze the effects of the Newlands OCAP on the Lower Truckee River system, Pyramid Lake, and associated wetlands. The Newlands OCAP are designed to minimize diversions from the Truckee River and spills from Lahontan Reservoir, yet provide an adequate water supply and carry over Lahontan Reservoir storage to meet the water duties of the land which is eligible to receive water from the Newlands Project.

Portions of the Newlands Project will affect floodplain and wetland areas. Accordingly, the objectives and requirements of Presidential Executive Orders 11988 and 11990, and the Reclamation Instructions, Chapter 376.5, will be considered throughout the planning and preparation of the EIS.

Meetings to solicit information from all interested public entities and persons to assist in determining the scope of the EIS will be held on July 16, 1985, at 7:30 p.m. in the Reno-Sparks Convention Center, North Meeting Room B-15, 4590 South Virginia Street, Reno, Nevada, and on July 17, 1985, in the Fallon Community Convention Center, 100 Campus Way, Fallon, Nevada. Written comments will be accepted through July 20, 1985, at the address listed in the next paragraph.

The contact persons for this draft environmental impact statement are Joel Verner, Attention: MP-410, telephone (916) 484-4328; or Susan Hoffman, Attention: MP-420, telephone (916) 484-4656; Bureau of Reclamation, 2800 Cottage Way, Sacramento, California 95825.

Dated: May 24, 1985.

Robert A. Olson,

Acting Commissioner.

[FR Doc. 85-13058 Filed 5-30-85; 8:45 am]

BILLING CODE 4310-09-M

INTERSTATE COMMERCE COMMISSION

Aero Mayflower Transit Co.; Predetermined Price Protection Tariff Item

AGENCY: Interstate Commerce Commission.

ACTION: Change of oral hearing date.

SUMMARY: At 50 FR 21516, 5-24-85, the Commission announced that an oral hearing will be held on the rejection of Aero Mayflower's Predetermined Price Protection Tariff Item. By this notice the Commission is changing the date of the oral hearing.

DATES: Oral hearing will be heard at 9:30 on July 19, 1985, instead of July 12, 1985. All other dates remain the same.

FOR FURTHER INFORMATION CONTACT: Neil S. Llewellyn, 202-275-7348 Charles E. Langyher, 202-275-7739.

This notice is issued under authority of 49 U.S.C. 10321 and 5 U.S.C. 553.

Decided: May 24, 1985.

By the Commission.

James H. Bayne,

Secretary.

[FR Doc. 85-13029 Filed 5-30-85; 8:45 am]

BILLING CODE 7035-01-M

Release of Waybill Data For Use by the Association of American Railroads

The Commission has received a request from the Association of American Railroads (AAR) to use the Commission's 1983 and, when available, 1984 Carload Waybill Sample for a study of hazardous materials accident rates. The Interindustry Task Force on the Safe Transportation of Hazardous Materials by Rail, of which AAR is a member, has authorized AAR's Research and Test Department to conduct this study. In the study they

hope to develop estimates of recent trends in hazardous materials accident rates. Individual commodities or class of commodities will be examined closely for any trends that may be evident. Their main objective is to identify improvements in hazardous materials transportation safety over the past few years as well as pinpoint any areas for further possible improvements.

The Commission requires rail carriers to file waybill sample information if in any of the past three years they terminated on their lines at least: (1) 4,500 revenue carloads or (2) 5 percent of revenue carloads in any one State (49 CFR Part 1244). From this waybill information, the Commission developed a Public Use Waybill File that has satisfied the majority of all our waybill data requests while protecting the confidentiality of proprietary data submitted by the railroads. However, if confidential waybill data are requested, as in this case, we will consider releasing the data only after certain protective conditions are met and public notice is given. More specifically, under the Commission's current policy for handling waybill requests, we will not release any confidential waybill data until after: (1) Certain requirements designed to protect the data's confidentiality are agreed to by the requesting party and (2) public notice is provided so affected parties have an opportunity to object. (48 FR 40328, September 6, 1983).

Accordingly, if any parties object to this request, they should file their objections (an original and 2 copies) within 14 calendar days of the date of this notice. They should also include all grounds for objection to the full or partial disclosure of the requested data. The Commission's Director of Office of Transportation Analysis will consider these objections in determining whether to release the requested waybill data. Any parties who objected will be timely notified of the Director's decision.

James H. Bayne,

Secretary.

[FR Doc. 85-13031 Filed 5-30-85; 8:45 am]

BILLING CODE 7035-01-M

Release of Waybill Data For Use by Association of American Railroads

The Commission has received a request from the Economics and Finance Department of the Association of American Railroads (AAR) to use the Commission's 1983 Carload Waybill Sample for use in the weekly estimate of traffic movement.

Information from the waybill sample regarding length of haul and tons per car will be obtained for the car service commodity groups. This information is selected from the waybill sample for Class I railroads only. This information is then matched with the car service carloading data to provide an estimate of total ton-miles and tonnage by railroad on a weekly basis. This data is then made available to the public on a subscription basis.

The Commission requires rail carriers to file waybill sample information if in any of the past three years they terminated on their lines at least: (1) 4,500 revenue carloads or (2) 5 percent of revenue carloads in any one State (49 CFR Part 1244). From this waybill information, the Commission developed a Public Use Waybill File that has satisfied the majority of all our waybill data requests while protecting the confidentiality of proprietary data submitted by the railroads. However, if confidential waybill data are requested, as in this case, we will consider releasing the data only after certain protective conditions are met and public notice is given. More specifically, under the Commission's current policy for handling waybill requests, we will not release any confidential waybill data until after: (1) Certain requirements designed to protect the data's confidentiality are agreed to by the requesting party and (2) public notice is provided so affected parties have an opportunity to object. (48 FR 40328, September 6, 1983).

Accordingly, if any parties object to this request, they should file their objections (an original and 2 copies) within 14 calendar days of the date of this notice. They should also include all grounds for objections to the full or partial disclosure of the requested data. The Commission's Director of Office of Transportation Analysis will consider these objections in determining whether to release the requested waybill data. Any parties who objected will be timely notified of the Director's decision.

James H. Bayne,

Secretary.

[FR Doc. 85-13032 Filed 5-30-85; 8:45 am]

BILLING CODE 7035-01-M

[Docket No. AB-52 (Sub-No. 38X)]

Railroads: The Atchison, Topeka & Santa Fe Railway Co.; Abandonment Exemption; Chase County, KS

AGENCY: Interstate Commerce Commission.

ACTION: Notice of exemption.

SUMMARY: The Interstate Commerce Commission exempts from 49 U.S.C. 10903 *et seq.*, the abandonment by the Atchison, Topeka and Santa Fe Railway Company of 8,976 feet of rail line (the Cottonwood Falls Spur) between Strong City and Cottonwood Falls, Chase County, KS, subject to employee protective conditions.

DATES: This exemption will be effective on July 1, 1985. Petitions to stay must be filed by June 10, 1985, and petitions for reconsideration must be filed by June 20, 1985.

ADDRESSES: Send pleadings referring to Docket No. AB-52 (Sub-No. 38X) to:

Office of Secretary Case Control Branch Interstate Commerce Washington, DC 20423

(2) Petitioner's representative: Michael W. Blaszak, 80 East Jackson Boulevard, Chicago, IL 60604.

FOR FURTHER INFORMATION CONTACT: Louis E. Gitomer, (202) 275 275-7245.

SUPPLEMENTARY INFORMATION: Additional information is contained in the Commission's decision. To purchase a copy of the full decision write to T.S. InfoSystem, Inc., Room 2229, Interstate Commerce Commission Bldg. Washington, DC, 20423, or call 289-4357 (DC Metropolitan area) or tool free (800) 424-5403.

Decided: May 22, 1985.

By the Commission, Chairman Taylor, Vice Chairman Gradison, Commissioners Sterrett, Andre, Simmons, Lamboley, and Strenio.

James H. Bayne,

Secretary.

[FR Doc. 85-13030 Filed 5-30-85; 8:45 am]

BILLING CODE 7035-01-M

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

Importation of Controlled Substances; Sigma Chemical Co.; Application

Pursuant to section 1008 of the Controlled Substance Import and Export Act (21 U.S.C. 958(h)), the Attorney General shall, prior to issuing a registration under this Section to a bulk manufacturer of a controlled substance in Schedule I or II, and prior to issuing a regulation under section 1002(a) authorizing the importation of such a substance, provide manufacturers holding registrations for the bulk manufacture of the substance and opportunity for a hearing.

Therefore, in accordance with § 1311.42 of Title 21, Code of Federal Regulations (CFR), notice is hereby given that on February 27, 1984, Sigma Chemical Company, 3500 Dekalb Street, St. Louis, Missouri 63118, made

application to the Drug Enforcement Administration to be registered as an importer of the basic classes of controlled substances listed below:

Drug	Schedule
Morphine-3-Gluronide (9329)	II
Marihuana (7360)	I
Tetrahydrocannabinols (7370)	I
Mescaline (7381)	I
Methaqualone (2565)	I

As to the basic classes of controlled substances listed above for which application for registration has been made, any other applicant therefor, and any existing bulk manufacturer registered therefor, may file written comments on or objections to the issuance of such registration and may, at the same time, file a written request for a hearing on such application in accordance with 21 CFR 1301.54 in such form as prescribed by 21 CFR 1316.47.

Any such comments, objections or requests for a hearing may be addressed to the Deputy Assistant Administrator, Drug Enforcement Administration, United States Department of Justice, 1405 I Street, NW., Washington, D.C. 20537, Attention: DEA Federal Register Representative (Room 1203), and must be filed no later than July 1, 1985.

This procedure is to be conducted simultaneously with and independent of the procedures described in 21 CFR 1311.42 (b), (c), (d), (e), and (f). As noted in a previous notice at 40 FR 43745–46 (September 23, 1975), all applicants for registration to import a basic class of any controlled substance in Schedule I or II are and will continue to be required to demonstrate to the Deputy Assistant Administrator of the Drug Enforcement Administration that the requirements for such registration pursuant to 21 U.S.C. 958(a), 21 CFR U.S.C. 823(a), and 21 CFR 1311.42 (a), (b), (c), (d), (e), and (f) are satisfied.

Dated: May 21, 1985.

Gene R. Haislip,

Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration.

[FR Doc. 85–13047 Filed 5–30–85; 8:45 am]

BILLING CODE 4410-09-M

Manufacturer of Controlled Substances; Ganes Chemicals Inc.; Registration

By Notice dated January 16, 1985, and published in the **Federal Register** on January 23, 1985; (50 FR 3040), Ganes Chemicals Inc., (Lessee of Siegfried Chemicals Inc.), Industrial Park Road, Pennsville, New Jersey 08070, made application to the Drug Enforcement Administration to be registered as a bulk manufacturer of the basic classes of controlled substances listed below:

Drug	Schedule
Methadone (9250)	II
Methadone-Intermediate, 4-Cyano-dimethylamino-4, 4-diphenyl butane (9254).	II

No comments or objections have been received. Therefore, pursuant to section 303 of the Comprehensive Drug Abuse Prevention and Control Act of 1970 and Title 21, Code of Federal Regulations, § 1301.54(e), the Deputy Assistant Administrator hereby orders that the application submitted by the above firm for registration as a bulk manufacturer of the basic classes of controlled substances listed above is granted.

Dated: May 21, 1985.

Gene R. Haislip,

Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration.

[FR Doc. 85–13048 Filed 5–30–85; 8:45 am]

BILLING CODE 4410-09-M

[Docket No. 84–16]

B. Ruppe Drugstore, Inc.; Revocation of Registration

On April 23, 1984, the Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration (DEA) issued and Order to Show Cause to B. Ruppe Drugstore, Inc. (Respondent), 807 Fourth Street, SW., Albuquerque, New Mexico 87102, proposing to revoke Respondent's DEA Certificate of Registration AB6412100 and to deny Respondent's pending application for renewal of such registration as a retail pharmacy under 21 U.S.C. 823(f). On May 16, 1984, Respondent requested a hearing on the issues raised by the Order to Show Cause. This matter was placed on the docket of Administrative Law Judge Francis L. Young.

Meanwhile, on April 13, 1984, Respondent, by its vice president, submitted a new application for registration and, on June 20, 1984, was issued a new certificate of registration AB2638421. On July 9, 1984, the Deputy Assistant Administrator issued a second Order to Show Cause to Respondent proposing to revoke registration AB2638421 and, on that same date, the Government moved to consolidate the proceedings arising out of the two orders. By order dated July 10, 1984, the Administrative Law Judge granted the Government's motion to consolidate.

The hearing in this matter was held in Albuquerque, New Mexico, on September 13, 1984. Judge Young presided. On March 8, 1985, Judge Young issued his opinion and recommended ruling, findings of fact, conclusions of law and decision. No exceptions were filed and, on April 3, 1985, Judge Young transmitted the record of these proceedings to the Acting Administrator. The Acting Administrator has considered this record in its entirety and, pursuant to 21 CFR 1316.67, hereby issues his final order in this matter, based upon findings of fact and conclusions of law as hereinafter set forth.

The Administrative Law Judge found that Tommy Sanchez, Jr. is the sole ower, corporate president and registered pharmacist of the Respondent pharmacy. In December 1981, a task force consisting of representatives of the New Mexico State Police Diversion Investigation Unit, the Bernalillo County Sheriff's Office, the Albuquerque Police Department and the District Attorney's Office was formed to investigate the diversion of drugs by physicians and pharmacists. This investigation led to the discovery that during the period of March 31, 1980, through January 28, 1981, Mr. Sanchez knowingly filled 162 forged prescriptions for a particular woman, for a total of 15,978 Dilaudid tablets, in exchange for sexual favors from the woman. During this period Mr. Sanchez was married and he was the father of several children. Mr. Sanchez also filled forged prescriptions for another woman during the period December 1980 to February 1981. These prescriptions were knowlingly filled by Mr. Sanchez for the purpose of assuring the second woman's silence regarding his extramarital sexual activities. These prescriptions resulted in the dispensing of almost 600 dosage units of various Schedule II, III and IV controlled substances.

Based on the above activities, on March 5, 1982, in Docket No. 5058—Criminal, in the District Court of New Mexico, Bernalillo County, Tommy Sanchez, Jr. was convicted, pursuant to his plea of guilty to a five-count information. Four counts charged him with unlawfully distributing and dispensing controlled substances in violation of section 30–31–18, NMSA 1978, and one count charged a conspiracy to commit a felony, to wit: Intentionally acquiring or obtaining possession of a controlled substance by misrepresentation, fraud, forgery, deception or subterfuge, in violation of sections 30–82–2 and 30–31–25(A)(3), NMSA 1978. All of these offenses were felonies relating to controlled

substances. DEA has consistently held that the registration of a corporate registrant may be revoked upon a finding that a natural person who is an owner, officer or key employee, or who has some responsibility for the operation of the registrant's controlled substance business, has been convicted of a felony offense relating to controlled substances. *Leonard S. Cohen, t/a Senate Drug Store*, Docket No. 72–5, 38 FR 9522 (1973); *Big-T Pharmacy, Inc.*, Docket No. 80–34, 47 FR 51830 (1982); *K & B Successors, Inc.*, Docket No. 82–15, 49 FR 34588 (1984). Therefore, there is a lawful basis for the revocation of Respondent's registrations and for the denial of Respondent's pending application for renewal. 21 U.S.C. 824(A)(2). See *AG Pharmacy, Inc.*, Docket No. 79–12, 45 FR 6868 (1980); *Serling Drugs Co.*, Docket No. 74–12, 40 FR 11918 (1975); *Rafael C. Cilento, M.D.*, Docket No. 79–2, 44 FR 30466 (1979).

The Administrative Law Judge further found that on March 5, 1982, subsequent to Tommy Sanchez' conviction, the New Mexico Board of Pharmacy suspended his license to practice pharmacy for one year with eleven months of that being commuted. The Administrative Law Judge did not accord a great deal of weight to the Board's decision since it held no evidentiary hearing and heard no testimony from the investigators and police officers. Prior to this, Mr. Sanchez' license to practice pharmacy was never suspended or revoked.

Tommy Sanchez, Jr. has practiced pharmacy for 35 years, exclusively with Respondent pharmacy. He depends on his income from the pharmacy to help support his family. He enjoys a good reputation in the pharmaceutical community as well as an excellent reputation in the community a large. He had no criminal record prior to March 5, 1982.

Judge Young concluded that even though he has sympathy for Mr. Sanchez and his family, the public interest requires revocation of his registrations. Judge Young stated in his opinion, that the purpose of these proceedings is not to set punishment for wrongdoing. The purpose, rather, is to maintain effective controls on the distribution of controlled substances.

Pharmacists exercise control over potentially dangerous substances. It is the duty of these professionals to protect the public health and safety by guarding against diversion of these substances. Given the magnitude of Mr. Sanchez' illegal dispensing practices, it is evident that Mr. Sanchez cannot be entrusted to safely and securely handle controlled substances. Judge Young recommended that the Respondent pharmacy DEA Certificates of Registration should be revoked.

The Acting Administrator adopts the recommended rulings, findings of fact, conclusions of law and decision of the Administrative Law Judge in their entirety.

Having concluded that there is a lawful basis for the revocation of the Respondent's registration, and having further concluded that under the facts and circumstances presented in this case the registrations should be revoked, the Acting Administrator of the Drug Enforcement Administration, pursuant to the authority vested in him by 21 U.S.C. 823 and 824 and 28 CFR 0.100, hereby orders that DEA Certificates of Registration AB6412100 and AB2638421, previously issued to B. Ruppe Drugstore, Inc., be, and they hereby are revoked. Any pending applications for registration are hereby denied July 1, 1985.

Dated: May 20, 1985.

John C. Lawn,

Acting Administrator.

[FR Doc. 85–13046 Filed 5–30–85; 8:45 am]

BILLING CODE 4410–09–M

Office of Juvenile Justice and Delinquency Prevention

Federal Coordinating Council; Meeting

The second quarterly meeting of the Federal Coordinating Council of Juvenile Justice and Delinquency Prevention will be held in Washington, D.C., on June 18, 1985. The meeting will take place at the Office of Juvenile Justice and Delinquency Prevention (OJJDP), Thirteenth Floor Conference Room, 633 Indiana Avenue NW., from 9:00 a.m. to 12 noon. The public is welcome to attend.

The agenda will include matters related to the coordination of the federal effort in the area of juvenile justice and delinquency prevention.

For further information, please contact Roberta Dorn, Office of Juvenile Justice of Delinquency Prevention, 633 Indiana Avenue NW., Washington, D.C. 20531, (202) 724–7655.

Dated: May 24, 1985.

Approved:

Alfred S. Regnery,

Administrator, Office of Juvenile Justice and Delinquency Prevention.

[FR Doc. 85–13024 Filed 5–30–85; 8:45 am]

BILLING CODE 4410–18–M

LEGAL SERVICES CORPORATION

Announcement of Intention To Award Funds

SUMMARY: The Legal Services Corporation through its Office and Field Services announces its intention to award one time grants in the following amounts and for the following periods to:

Region	Amount	Period
For the Development of Private Bar Programs:		
I Worcester County Bar Association (Massachusetts)	$24,650	Oct. 1, 1985 to Sept. 30, 1986
The Legal Aid Society (New York)	40,000	July 1, 1985 to June 30, 1986
II Maryland State Bar Association	6,500	Do.
North Carolina Bar Association	35,000	Do.
III Loyola University of New Orleans (Louisiana)	14,520	Do.
IV Cincinnati Bar Association (Ohio)	23,400	Do.
Senior Citizens Judicare Project (Pennsylvania)	18,000	Do.
Allegheny County Bar Association (Pennsylvania)	20,000	Jan. 1, 1986 to Dec. 31, 1986
V Larimer County Bar Association of Colorado	3,750	July 1, 1985, to June 30, 1986
VI Alaska Pro Bono Program	22,000	Do.
North Dakota State Bar	15,000	Do.
For the Development of Source Materials:		
III Nova University Center for the Study of Law (Florida)	33,000	Do.
For the Development of Law School Clinical Programs:		
IV Loyola of Chicago School of Law (Illinois)	53,732.22	July 1, 1985 to June 30 1987

These awards are for: (1) The implementation of law school civil clinical programs, (2) the development of source materials on laws affecting the elderly, (3) the development of plans to encourage the private bar to provide higher quality paid services and to expand pro bono programs.

These funds will be awarded on a non-recurring basis under the authority of Pub. L. 98–411 and section 1006(a)(1)(B) and section 1006(a)(3) of the Legal Services Corporation Act of 1974 as amended.

There will be no refunding rights for these one-time grants.

Notice is issued pursuant to section 1007(f) of The Legal Services Corporation Act of 1974 as amended, with a request for comments and recommendations within a period of thirty (30) days from the date of publication of this notice.

The grant award will not become effective and grant funds will not be

distributed prior to the expiration of the thirty-day period.

DATE: All comments must be received by the Legal Services Corporation within 30 days from the date of publication of this notice.

FOR FURTHER INFORMATION CONTACT: Beverly Bunn, Legal Services Corporation, Office of Field Services, 733 Fifteenth Street, NW., Washington, D.C. 20005, (202) 272–4351.

SUPPLEMENTARY INFORMATION: Grants are awarded pursuant to the Legal Services Corporation's announcement of availability of funds. Announcement of funding availability was made at the following times: (1) For the implementation of law school civil clinical programs to improve the quality of legal services to elderly persons (**Federal Register**, p. 11469, March 21, 1985), (2) for the development of source materials on laws affecting elderly persons) **Federal Register**, p. 12665, March 29, 1985) and (3) for the development of plans to encourage the private bar to provide higher quality paid services and to expand pro bono programs (**Federal Register**, p. 13431, April 4, 1985).

The Legal Services Corporation intends these grants to increase and improve the quality of legal services to elderly poor persons presently unserved or underserved. Additionally, funded programs should sensitize and educate the present bar and future lawyers to the legal needs of the elderly.

John. C. **Meyer,**

Associate Director, Office of Field Services.

[FR Doc. 85–13194 Filed 5–30–85; 8:45 am]

BILLING CODE 6820-35-M

NUCLEAR REGULATORY COMMISSION

Advisory Committee on Reactor Safeguards, Subcommittee on Air Systems; Meeting

The ACRS Subcommittee on Air Systems will hold a meeting on June 17, 1985, Room 1046, 1717 H Street, NW, Washington, DC.

The entire meeting will be open to public attendance.

The agenda for subject meeting shall be as follows:

Monday, June 17, 1985–8:30 a.m. until the conclusion of business

The Subcommittee will review the NRC Staff's Supplement to the Control Room Habitability Working Group Report—June 1984. This Supplement is to discuss the Staff's survey of NTOL and OR control rooms. Also, the Subcommittee will review the Staff's final report on "Safety Implications Associated with In-Plant Pressurized Gas Storage and Distribution Systems in Nuclear Power Plants."

Oral statements may be presented by members of the public with concurrence of the Subcommittee Chairman; written statements will be accepted and made available to the Committee. Recordings will be permitted only during those portions of the meeting when a transcript is being kept, and questions may be asked only by members of the Subcommittee, its consultants, and Staff. Persons desiring to make oral statements should notify the ACRS staff members as far in advance as practicable so that appropriate arrangements can be made.

During the initial portion of the meeting, the Subcommittee, along with any of its consultants who may be present, may exchange preliminary views regarding matters to be considered during the balance of the meeting.

The Subcommittee will then hear presentations by and hold discussions with representatives of the NRC Staff, its consultants, and other interested persons regarding this review.

Further information regarding topics to be discussed, whether the meeting has been cancelled or rescheduled, the Chairman's ruling on requests for the opportunity to present oral statements and the time allotted therefor can be obtained by a prepaid telephone call to the cognizant ACRS staff member, Mr. John Schiffgens (telephone 202/634–1414) between 8:15 a.m. and 5:00 p.m., EDT. Persons planning to attend this meeting are urged to contact the above named individual one or two days before the scheduled meeting to be advised of any changes in schedule, etc., which may have occurred.

Dated: May 23, 1985.

Morton W. Libarkin,

Assistant Executive Director for Project Review.

[FR Doc. 85–13100 Filed 5–30–85; 8:45 am]

BILLING CODE 7590-01-M

Advisory Committee on Reactor Safeguards, Subcommittee on Human Factors; Meeting

The ACRS Subcommittee on Human Factors will hold a meeting on June 20, 1985, Room 1046, 1717 H Street, NW, Washington, DC.

The entire meeting will be open to public attendance.

The agenda for the subject meeting shall be as follows:

Thursday, June 20, 1985–8:30 a.m. until the conclusion of business

The Subcommittee will identify real and/or perceived problems with the operator requalification process, decide on an appropriate action plan to resolve them, and make the necessary recommendations to the Committee.

Oral statements may be presented by members of the public with the concurrence of the Subcommittee Chairman; written statements will be accepted and made available to the Committee. Recordings will be permitted only during those portions of the meeting when a transcript is being kept, and questions may be asked only by members of the Subcommittee, its consultants, and Staff. Persons desiring to make oral statements should notify the ACRS staff member named below as far in advance as is practicable so that appropriate arrangements can be made.

During the initial portion of the meeting, the Subcommittee, along with any of its consultants who may be present, may exchange preliminary views regarding matters to be considered during the balance of the meeting.

The Subcommittee will then hear presentations by and hold discussions with representatives of the NRC Staff its consultants, and other interested persons regarding this review.

Further information regarding topics to be discussed, whether the meeting has been cancelled or rescheduled, the Chairman's ruling on requests for the opportunity to present oral statements and the time allotted therefor can be obtained by a prepaid telephone call to the cognizant ACRS staff member, Mr. John Schiffgens (telephone 202/634–1414) between 8:15 a.m. and 5:00 p.m., EDT. Persons planning to attend this meeting are urged to contact the above named individual one or two days before the scheduled meeting to be advised of any changes in schedule, etc., which may have occurred.

Dated: May 22, 1985.

Morton W. Libarkin,

Assistant Executive Director for Project Review.

[FR Doc. 85–13095 Filed 5–30–85; 8:45 am]

BILLING CODE 7590-01-M

Advisory Committee on Reactor Safeguards; Subcommittees on Human Factors and Maintenance Practices and Procedures; Meeting

The ACRS Subcommittees on Human Factors and Maintenance Practices and Procedures will hold a combined meeting on June 18, 1985, Room 1046, 1717 H Street, NW, Washington, DC.

The entire meeting will be open to public attendance.

The agenda for subject meeting shall be as follows:

Tuesday, June 18, 1985–1:00 p.m. until the conclusion of business

The Subcommittees will explore the use of natural aptitude selection procedures, tests, and evaluations.

Oral statements may be presented by members of the public with the concurrence of the Subcommittee Chairman; written statements will be accepted and made available to the Committee. Recordings will be permitted only during those portions of the meeting when a transcript is being kept, and questions may be asked only by members of the Subcommittee, its consultants, and Staff. Persons desiring to make oral statements should notify the ACRS staff member named below as far in advance as is practicable so that appropriate arrangements can be made.

During the initial portion of the meeting, the Subcommittee, along with any of its consultants who may be present, may exchange preliminary views regarding matters to be considered during the balance of the meeting.

The Subcommittee will then hear presentations by and hold discussions with representatives of the NRC Staff, its consultants, and other interested persons regarding this review.

Further information regarding topics to be discussed, whether the meeting has been cancelled or rescheduled, the Chairman's ruling on requests for the opportunity to present oral statements and the time allotted therefor can be obtained by a prepaid telephone call to the cognizant ACRS staff member, Mr. John Schiffgens or Mr. Herman Alderman (telephone 202/634–1414) between 8:15 a.m. and 5:00 p.m., EDT. Persons planning to attend this meeting are urged to contact the above named individual one or two days before the scheduled meeting to be advised of any changes in schedule, etc., which may have occurred.

Dated: May 23, 1985.

Morton W. Libarkin,

Assistant Executive Director for Project Review.

[FR Doc. 85–13096 Filed 5–30–85; 8:45 am]

BILLING CODE 7590-01-M

Advisory Committee on Reactor Safeguards, Subcommittee on Maintenance Practices and Procedures; Meeting

The ACRS Subcommittee on Maintenance and Procedures will hold a meeting on June 18, Room 1046, 1717 H Street, NW, Washington, DC.

The entire meeting will be open to public attendance.

The agenda for the subject meeting shall be as follows:

Tuesday, June 18, 1985—8:30 a.m. until the conclusion of business

The Subcommittee will review the maintenance and surveillance program plan.

Oral statements may be presented by members of the public with the concurrence of the Subcommittee Chairman; written statements will be accepted and made available to the Committee. Recordings will be permitted only during those portions of the meeting when a transcript is being kept, and questions may be asked only by members of the Subcommittee, its consultants, and Staff. Persons desiring to make oral statements should notify the ACRS staff member named below as far in advance as is practicable so that appropriate arrangements can be made.

During the initial portion of the meeting, the Subcommittee, along with any of its consultants who may be present, may exchange preliminary views regarding matters to be considering during the balance of the meeting.

The Subcommittee will then hear presentations by and hold discussions with representatives of the NRC Staff, its consultants, and other interested persons regarding this review.

Further information regarding topics to be discussed, whether the meeting has been cancelled or rescheduled, the Chairman's ruling on requests for the opportunity to present oral statements and the time allotted therefor can be obtained by a prepaid telephone call to the cognizant ACRS staff member, Mr. Herman Alderman (telephone 202/634–1414) between 8:15 a.m. and 5:00 p.m., EDT. Persons planning to attend this meeting are urged to contact the above individual one or two days before the scheduled meeting to be advised of any changes in schedule, etc., which may have occurred.

Dated: May 23, 1985.

Morton W. Libarkin,

Assistant Executive Director for Project Review.

[FR Doc. 85–13099. Filed 5–35–85; 8:45 am]

BILLING CODE 7590-50-M

Advisory Committee on Reactor Safeguards Subcommittee on Systematic Evaluation Program (San Onofre); Meeting

The ACRS Subcommittee on Systematic Evaluation Program (San Onofre) will hold a meeting on June 19, 1985, Room 1046, 1717 H Street, NW, Washington, DC.

The entire meeting will be open to public attendance.

The agenda for the subject meeting shall be as follows:

Wednesday, June 19, 1985–8:30 a.m. until the conclusion of business

The Subcommittee will review the Integrated Plant Safety Analysis Report (IPSAR) for San Onofre Unit 1.

Oral statements may be presented by members of the public with the concurrence of the Subcommittee Chairman; written statements will be accepted and made available to the Committee. Recordings will be permitted only during those portions of the meeting when a transcript is being kept, and questions may be asked only by members of the Subcommittee, its consultants, and Staff. Persons desiring to make oral statements should notify the ACRS staff member named below as far in advance as is practicable so that appropriate arrangements can be made.

During the initial portion of the meeting, the Subcommittee, along with any of its consultants who may be present, may exchange preliminary views regarding matters to be considered during the balance of the meeting.

The Subcommittee will then hear presentations by and hold discussions with representatives of the NRC Staff, its consultants, and other interested persons regarding this review.

Further information regarding topics to be discussed, whether the meeting has been cancelled or rescheduled, the Chairman's ruling on requests for the opportunity to present oral statements and the time allotted therefor can be obtained by a prepaid telephone call to the cognizant ACRS staff member, Mr. Herman Alderman (telephone 202/634–1414) between 8:15 a.m. and 5:00 p.m., EDT. Persons planning to attend this meeting are urged to contact the above named individual one or two days before the scheduled meeting to be advised of any changes in schedules, etc., which may have occurred.

Dated: May 23, 1985.

Morton W. Libarkin,

Assistant Executive Director for Project Review.

[FR Doc. 85-13096 Filed 5-30-85; 8:45 am]

BILLING CODE 7590-01-M

Advisory Committee on Reactor Safeguards Subcommittees on Waste Management and Site Evaluation; Meeting

The ACRS Subcommittees on Waste Management and Site Evaluation will hold a joint meeting on June 18 and 19, 1985, Room 1167, 1717 H Street, NW, Washington, DC.

The entire meeting will be open to public attendance.

The agenda for the subject meeting shall be as follows:

Tuesday, June 18, 1985–8:30 a.m. until the conclusion of business

Wednesday, June 19, 1985–8:30 a.m. until the conclusion of business

The Subcommittees will review two topics: (1) 40 CFR Part 191, the Environmental Protection Agency's Final Draft of Standards for High-Level Waste Repositories, and (2) 10 CFR Parts 30, 40 and 70, the Nuclear Regulatory Commission's Proposed Rule on Emergency Preparedness for Fuel Cycle and Other Radioactive Material Licensees.

Oral statements may be presented by members of the public with the concurrence of the Subcommittee Chairman; written statements will be accepted and made available to the Committee. Recordings will be permitted only during those portions of the meeting when a transcript is being kept, and questions may be asked only by members of the Subcommittee, its consultants, and Staff. Persons desiring to make oral statements should notify the ACRS staff member named below as far in advance as is practicable so that appropriate arrangements can be made.

During the initial portion of the meeting, the Subcommittee, along with any of its consultants who may be present, may exchange preliminary views regarding matters to be considered during the balance of the meeting.

The Subcommittee and its consultants will then hear presentations by and hold discussions with representatives of the Environmental Protection Agency, the Department of Energy, the NRC Staff, and other interested persons regarding this review.

Further information regarding topics to be discussed, whether the meeting has been cancelled or rescheduled, the Chairman's ruling on requests for the opportunity to present oral statements and the time allotted therefor can be obtained by a prepaid telephone call to the cognizant ACRS staff member, Mr. Owen S. Merrill (telephone 202/634-1414) between 8:15 a.m. and 5:00 p.m., EDT. Persons planning to attend this meeting are urged to contact the above named individual one or two days before the scheduled meeting to be advised of any changes in schedule, etc., which may have occurred.

Dated: May 28, 1985.

Morton W. Libarkin,

Assistant Executive Director for Project Review.

[FR Doc. 85-13097 Filed 5-30-85; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-192]

The University of Texas; Proposed Issuance of Orders Authorizing Disposition of Component Parts and Termination Facilities License

The U.S. Nuclear Regulatory Commission (Commission) is considering issuance of Orders authorizing The University of Texas (licensee) to dispose of the component parts of the research reactor in their possession, in accordance with the licensee's application dated May 3, 1985, and terminating the Facility Operating License No. R-92.

The first of these Orders would be issued following the Commission's review and approval of the licensee's detailed plan for decontamination of the facility and disposal of the radioactive components, or some alternate disposition plan for the facility. This Order would authorize implementation of the approved plan. Following completion of the authorized activities and verification by the Commission that acceptable radioactive contamination levels have been achieved, the Commission would issue a second Order terminating the facility license and any further NRC jurisdiction over the facility. Prior to issuance of each Order, the Commission will have made the findings required by the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations.

By July 1, 1985, the licensee may file a request for a hearing with respect to issuance of the subject Orders and any person whose interest may be affected by this proceeding and who wishes to participate as a party in the proceeding must file a petition for leave to intervene. Requests for a hearing and petitions for leave to intevene shall be filed in accordance with the Commission's "Rules of Practice for Domestic Licensing Proceedings" in 10 CFR Part 2. If a request for hearing petition for leave to intervene is filed by the above date, the Commission or an Atomic Safety and Licensing Board, designated by the Commission or by the Chairman of the Atomic Safety and Licensing Board will rule on the request and/or petition and the Secretary or the designated Atomic Safety and Licensing Board will issue a notice of hearing or an appropriate Order.

As required by 10 CFR 2.714, a petition for leave to intervene shall set forth with particularity the interest of the petitioner in the proceeding, and how that interest may be affected by the results of the proceeding. The petition should specifically explain the reasons why intervention should be permitted with particular reference to the following factors: (1) The nature of the petitioner's right under the Act to be made a party to the proceeding; (2) the nature and extent of the petitioner's property, financial, or other interest in the proceeding; and (3) the possible effect of any Order which may be entered on the petitioner's interest. The petition should also identify the specific aspect(s) of the subject matter of the proceeding as to which petitioner wishes to intervene. Any person who has filed a petition for leave to intervene or who has been admitted as a party may amend the petition without requesting leave of the Board up to fifteen (15) days prior to the first prehearing conference scheduled in the proceeding but such an amended petition must satisfy the specificity requirements described above.

Not later than fifteen (15) days prior to the first prehearing conference scheduled in the proceeding, a petitioner shall file supplement to the petition to intervene which must include a list of the contentions which are sought to be litigated in the matter, and the bases for each contention set forth with reasonable specificity. Contentions shall be limited to matters within the scope of the action under consideration. A petitioner who fails to file such a supplement which satisfies these requirements with respect to at least one contention will not be permitted to participate as a party.

Those permitted to intervene become parties to the proceeding, subject to any limitations in the Order granting leave to intervene, and have the opportunity to participate fully in the conduct of the hearing, including the opportunity to

present evidence and cross-examine witnesses.

A request for a hearing or a petition for leave to intervene shall be filed with the Secretary of the Commission, United States Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Docketing and Service Section, or may be delivered to the Commission's Public Document Room, 1717 H Street, NW, Washington, D.C. by the above date. Where petitions are filed during the last ten (10) days of the notice period, it is requested that the petitioner or representative for the petitioner promptly so inform the Commission by a toll-free telephone call to Western Union at (800) 325-6000 (in Missouri (800) 342-6700). The Western Union operator should be given Datagram Identification Number 3737 and the following message addressed to Cecil O. Thomas: (petitioner's name and telephone number); (date petiton was mailed); (The University of Texas); and publication date and page number of this **Federal Register** notice). A copy of the petition should also be sent to the Executive Legal Director, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, and to the attorney for the licensee, James L. Crowson, Office of the General Counsel, The University of Texas, 210 West 7th Street, Austin, Texas 78701.

Nontimely filings of petitions for leave to intervene, amended petitions, supplemental petitions and/or requests for hearing will not be entertained absent a determination by the Commission, the presiding officer or the Atomic Safety and Licensing Board designated to rule on the petition and/or request, that the petitioner has made a substantial showing of good cause for the granting of a late petition and/or request. That determination will be based upon a balancing of the factors specified in 10 CFR 2.714(a)(1)(i)-(v) and 2.714(d).

For further details with respect to this action, see the licensee's application dated May 3, 1985, which is available for public inspection at the Commission's Public Document Room, 1717 H Street, NW., Washington, D.C.

Dated at Bethesda, Maryland, this 24th day of May, 1985.

For The Nuclear Regulatory Commission.

Cecil O. Thomas,

Chief, Standardization and Special Projects Branch, Division of Licensing.

[FR Doc. 85-13101 Filed 5-30-85; 8:45 am]

BILLING CODE 7590-01-M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-22064; SR-Amex-85-5]

Self-Regulatory Organizations; Order Approving Proposed Rule Change by the American Stock Exchange

May 22, 1985.

I. Introduction

On March 20, 1985, the American Stock Exchange ("AMEX") filed with the Securities and Exchange Commission a proposed rule change pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 (the "Act"), 15 U.S.C. 78s(b)(1) and Rule 19b-4 thereunder. Generally, the proposed rule change, which is similar to a New York Stock Exchange rule change the Commission approved in April 1985,[1] would permit AMEX listed companies to act as both transfer agents and registrars for their own securities, subject to conditions similar to those for unaffiliated banks and trust companies. The Commission published notice of the proposed rule change in Securities Exchange Act Release No. 21927.[2] No comment letters were received. As discussed below, the Commission is approving the proposed rule change.

II. Description

The proposed rule change modifies AMEX's securities listing standards to permit AMEX listed companies to act in a dual capacity as transfer agent and registrar for their own securities or to appoint qualified organizations (not just unaffiliated banks and trust companies [3]) to act in a dual capacity as transfer agent and registrar.[4] Under the proposed rule change, entities acting in a dual capacity as transfer agent and registrar would be required to perform these functions separately, establish appropriate internal controls to assure the separation of functions, and subject those controls to an annual independent audit. In addition, listed companies acting in a dual capacity would have to agree to maintain offices, staffed by qualified personnel, with adequate facilities for the safekeeping of securities in their possession where transfer and registration may be completed within 48 hours.[5]

III. Discussion

The AMEX believes that the proposed rule change is consistent with section 6(b)(5) of the Act. Specifically, the AMEX believes that the proposed rule change should promote the economical and efficient transfer of securities and result in significant operational efficiencies and cost savings for listed companies. The AMEX notes, for example, that eliminating the independent registrar requirement should eliminate issuer and transfer agent expense for separate registrar facilities and reduce securities certificate handling problems that occur during the transfer and registration processes. Finally, the AMEX believes that the proposed rule change reflects recent changes in auditing standards, improved securities transfer performance and the development of corporate governance policies that guard against securities overissuances.

The Commission agrees with AMEX; as discussed below, the Commission is approving the proposed rule change. The proposed rule change represents the first modification of AMEX rules affecting transfer agents and registrars since the passage of the Securities Acts Amendments of 1975,[6] which authorized direct federal regulation of transfer agents.[7] Notwithstanding direct federal regulation of transfer agents and registrars, the Commission believes that because exchanges are obligated to maintain the operational and financial integrity of the markets for listed securities issues, exchanges appropriately may adopt rules to assure safe and efficient securities transfers. Thus, the Commission believes that the

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[1] *See* Securities Exchange Act Release No. 21499 (November 19, 1984), 49 FR 46606 (November 27, 1984). In this Release, the Commission approved the New York Stock Exchange's proposed rule change eliminating the independent registrar requirement and encouraged other exchanges to take similar action. Id. at 4607, n. 6.

[2] 50 FR 15027 (April 16, 1985).

[3] Currently, the AMEX permits only banks and trust companies that are not affiliated with the issuer to act as both transfer agents and registrars for AMEX listed securities. *See* Amex Rule 805.

[4] The proposed rule change would permit listed companies to retain independent registrars, but would expand the universe of potentially qualified organizations to include any registered transfer agent. Thus, non-bank, non-issuer transfer agents would be eligible to act as either the independent registrar or the transfer agent and registrar for an AMEX listed issue.

[5] *See* Amex Rule 891.

[6] Pub. L. No. 94-29, 89 Stat. 97 (1975). The Commission commends the AMEX for reexamining its rules affecting transfer agents and registrars and for modifying those rules to reflect regulatory and other changes that have materially affected or improved the securities transfer and registration processes. To this end, the Commission encourages other exchanges to reexamine and, if necessary, update their rules concerning transfer agents and registrars.

[7] Prior to 1975, the federal government did not directly regulate transfer agent activity with a view to assuring prompt and accurate securities transfers on a national basis. As a result, the AMEX established certain requirements affecting transfer agents and registrars that the AMEX believes would ensure efficient transfer of AMEX listed securities.

AMEX may establish standards affecting transfer agents for listed securities through rules affecting listed companies, provided those standards are consistent with section 6 of the Act and the scheme of federal transfer agent regulation established in section 17A of the Act.[8]

The Commission recognizes the AMEX's longstanding interest in preventing securities overissuances. As the Commission noted in Securities Exchange Act Release No. 19142,[9] substandard transfer agent performance, such as overissuing securities, can lead to significant financial loss, market confusion and trading suspensions.[10] Indeed, the AMEX's independent registrar requirement grew out of overissuances that occurred in the 1800's and that continued uncorrected for many years because of inadequate transfer agent internal controls.[11]

The Commission believes the AMEX's proposed requirements are reasonably designed to prevent overissuances. Although the proposed rule change would permit listed companies to act in a dual capacity, the proposed rule change appears well designed to prevent overissuances. Separating the transfer and registrar functions internally should provide a routine check on each certificate issuance. Establishing internal controls and independently evaluating those controls on an annual basis should provide added confidence to the transfer process.

Moreover, the Commission believes that the AMEX's requirements are consistent with, and appropriately supplement, federal transfer agent regulation.[12] Since 1975, the Commission has adopted minimum standards governing transfer and registrar functions designed to ensure the prompt, safe and accurate transfer of ownership in corporate and other securities.[13] Direct federal regulation of transfer agents, among other things, has substantially lessened the possibilities of securities overissuances and other errors. For example, Rule 17Ad–10 requires transfer agents to exercise diligent and continuous attention to resolving record differences that may result in securities overissuances. In addition, Rule 17Ad–11 requires transfer agents with aged record differences in excess of certain thresholds to report those record differences to issuers and, in some cases, the appropriate regulatory authority. Finally, Rule 17Ad–10(g) requires transfer agents that cause an overissuance after September 1983 to buy in securities equal to the amount of the overissuance.

The Commission also believes that the proposed rule change will result in significant operational efficiencies and cost savings for listed companies, consistent with the requirements of section 17A of the Act. By eliminating the need for independent registrars for listed issues, the proposed rule change should permit issuers and their agents to streamline the securities transfer process and to eliminate several expenses associated with maintaining an independent registrar. For example, listed companies could eliminate fees they currently pay for independent registrar services and for shipping certificates between the transfer agent's and registrar's offices. Similarly, eliminating the independent registrar requirement should reduce the risk of lost or stolen certificates during the transfer process.

The Commission believes that the proposed rule change fosters cooperation and coordination among persons engaged in the clearing, settling and processing of securities transactions, consistent with the requirements of section 17A of the Act. First, the proposed rule change permits one entity to perform all aspects of the transfer process. Second, the proposed rule change should increase the number of AMEX listed securities that are processed through Transfer Agent Custodian ("TAC") programs. TAC programs involve sophisticated links between depositories and transfer agents that, among other things, reduce certificate handling and time-consuming data entry in connection with certificate processing, thereby expediting the entire transfer process.[14] To participate in these programs, however, transfer agents must be able to issue certificates on extremely short notice. The Commission understands that by eliminating the outside registrar and streamlining the certificate issuance process in response to the proposed rule change, several listed companies that perform their own transfer agent functions will be able to participate in the Depository Trust Company's TAC program.[15]

The Commission notes finally that the proposed rule change eliminates disparate treatment among banks, issuers and others that perform transfer and registrar functions for AMEX listed securities. Current AMEX listing standards permit only unaffiliated banks and trust companies to act as both transfer agent and registrar for AMEX listed securities. Under the proposed rule change, however, issuer and other non-bank transfer agents will be permitted to act as transfer agents and registrars in a dual capacity for AMEX listed issues, provided they meet similar conditions. Thus, the proposed rule change helps further the goal of equal regulation.

IV. Conclusion

For the reasons stated above, the Commission finds the proposed rule change consistent with the Act, particularly sections 6(b)(5) and 17A.

It is therefore ordered, pursuant to section 19(b)(2) of the Act, that the

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[8] The Commission recognizes that some AMEX transfer agent standards may establish time frames for completing securities transfers that are stricter than the time frames specified in Commission rules. The AMEX time frames were established prior to 1975 and are not part of this proposed rule change. Thus, the Commission is not addressing those time frames or other aspects of AMEX rules that affect transfer agents. The Commission encourages discussion between AMEX and transfer agent industry representatives that reexamines AMEX rules affecting transfer agents in light of regulatory and operational changes affecting transfer agents.

[9] 47 FR 47269, 47270 n. 5 (October 25, 1982).

[10] *Id. See* Securities Exchange Act Release No. 18100 (September 17, 1981) (trading suspension in stock of Lewis Energy Corporation when possibility of substantial overissuance occurred).

[11] *See, e.g., New York and New Haven Railway* v. *Schuyler*, 34 N.Y. 30 (1865).

[12] For example, the proposed rule change would require AMEX listed companies that perform transfer agent functions to obtain an independent evaluation of their internal accounting controls if they also elect to act as registrars, even though those companies would be exempt from the internal accounting control report requirement of Rule 17Ad-13. *See* 17 CFR § 240.17Ad–13(d)(1)(i). Given the AMEX's interest in preventing overissuances, the Commission believes the AMEX may appropriately require more extensive internal accounting controls and similarly extensive independent review of those controls than the minimum requirements set forth in Commission rules.

[13] *See* 17 CFR 240.17Ad–1 through 17 CFR 240.17Ad–14. For example, Rule 17Ad–2 requires transfer agents to turnaround 90% of all routine items they receive for transfer each month within three business days. In addition, Rule 17Ad–10 requires recordkeeping transfer agents to maintain accurate issuer securityholder records and to update those records promptly to reflect transfers, purchases, redemptions and issuances of securities. Moreover, Rule 17Ad–12 establishes a general requirement that transfer agents safeguard securities and funds relating to their transfer agent activity. Finally, Rule 17Ad–13 requires certain transfer agents to obtain an independent report concerning the adequacy of the transfer agent's system of internal accounting control.

[14] For example, The Depository Trust Company ("DTC") operates a TAC program known as Fast Automated Securities Transfer ("FAST"). Under that program, the transfer agent safekeeps one or more balance certificates reflecting DTC's securities position in a particular issue. Thus, the depository can reduce the number of certificates held in its vault and transfer turnaround can be automated and expedited. In fact, users can effect customer name transfer through the TAC program on a same day basis.

[15] *See* Securities and Exchange Commission, Report of the Division of Market Regulation 1984 Securities Processing Roundtable, 38–39 (May 1984).

proposed rule change (SR–AMEX–85–5) be and hereby is approved.

For the Commission, by the Division of Market Regulation pursuant to delegated authority.

John Wheeler,

Secretary.

[FR Doc. 85–13042 Filed 5–30–85; 8:45 am]

BILLING CODE 8010–01–M

[Release No. IC–14539; (File No. 812–6086)]

AARP U.S. Government Money Market Trust et al.; Application for an Order Permitting Joint Trading Account

May 24, 1985.

Notice is hereby given that AARP U.S. Government Money Market Trust; American Leaders Fund, Inc.; Automated Cash Management Trust; Automated Government Money Trust; Edward D. Jones & Co. Daily Passport Cash Trust; EGT Money Market Trust; FT International Trust; Federated Corporate Cash Trust; Federal Exchange Fund, Ltd.; Federated GNMA Trust; Federated Growth Trust; Federated High Income Securities, Inc.; Federated High Yield Trust; Federated Income Trust; Federated Intermediate Government Trust; Federated Master Trust; Federated Mortgage Securities Income Fund; Federated Short-Intermediate Government Trust; Federated Short-Intermediate Municipal Trust; Federated Stock and Bond Fund, Inc.; Federated Stock Trust; Federated Tax-Free Income Fund, Inc.; Federated Tax-Free Trust; Fort Washington Money Market Fund; Fund for U.S. Government Securities, Inc.; High Yield Cash Trust; Legg Mason Cash Reserve Trust; Liquid Cash Trust; Lutheran Brotherhood Fund, Inc.; Lutheran Brotherhood Income Fund, Inc.; Lutheran Brotherhood Money Market Fund; Lutheran Brotherhood Municipal Bond Fund, Inc.; Money Market Instruments Trust; Money Market Management; Money Market Trust; Morgan Keegan Daily Cash Trust; New York Tax-Free Trust; SUTRO Money Market Fund; Tax-Free Instruments Trust; Trust for Cash Reserves; Trust for Short-Term U.S. Government Securities; Trust for U.S. Treasury Obligations (the "Fund Applicants") and EGT Research Limited Partnership; Federated Research Corp.; I.F.F. Research Corp.; Institutional Research Corp.; LM Research Limited Partnership; Liquid Assets Research Corp.; Lutheran Brotherhood Research Corp.; MYD Research Limited Partnership; Passport Research, Ltd.; and SUTRO Cash Research Ltd.; all of 421 Seventh Avenue, Pittsburgh, PA 15219; and Fir Tree Avisers, Inc., c/o Fiduciary Trust Company of New York, Two World Trade Center, New York, New York 10048; and The Standard Fire Insurance Company, 151 Farmington Avenue, Hartford, CT 06156 (the "Advisory Applicants", collectively with the Fund Applicants, "Applicants") investment advisers to the Fund Applicants, filed an application on April 4, 1985, and an amendment thereto on May 15, 1985, requesting an order of the Commission pursuant to section 17(d) of the Investment Company Act of 1940 ("Act") and Rule 17d–1 thereunder to permit the Fund Applicants, as well as any future investment companies which may be advised by either the Advisory Applicants or any future investment advisers which are subsidiaries or affiliates of Federated Investors, Inc. (collectively with the Fund Applicants, the "Funds"), to deposit their cash balance remaining uninvested at the end of each trading day in a single joint account whose daily balance would be used to enter into one or more repurchase agreements in a total amount equal to the aggregate daily balance in the account. All interested persons are referred to the application on file with the Commission for a statement of the representations contained therein, which are summarized below, and to the Act and the rules thereunder for the text of their relevant provisions.

Applicants state that the Fund Applicants comprise the funds of the Federated Funds, and that those Fund Applicants which presently invest in repurchase agreements (which are all of the funds in the Federated group except those Funds which invest in tax-exempt securities) had as of December 31, 1984, total net assets of $25,992,400,000. Applicants state that those Fund Applicants which do not presently invest in repurchase agreements are joining in this application in anticipation that they may wish to do so in the future and that, in this regard, statements with respect to the practices and wishes of the Fund Applicants should be read to include only those which presently invest in repurchase agreements where the context so requires. Applicants state that all of the Fund Applicants have currently effective registration statements under the Act, although not all of the Fund Applicants are currently offering their shares for sale to the public. In addition, each of the Fund Applicants has entered into an Advisory and Service Contract with one of the Advisory Applicants to obtain investment advice and management services.

Applicants state that each of the Funds has, or may be expected to have, uninvested cash balances at the end of each trading day which in the normal course are or would be invested in overnight repurchase agreements with a bank or major brokerage house in order to earn additional income for the Fund. Applicants seek permission to deposit these cash balances, which are presently invested daily in individual repurchase agreements, into a single joint account the daily balance in which would be used to enter into one or more large repurchase agreements in a total amount equal to the aggregate daily balance in the account.

According to the application, the repurchase desk operated by the Advisory Applicants on behalf of the Funds currently begins at 8:45 a.m. negotiating the interest rate for repurchase agreements for that day and lining up the United States government obligations required as collateral, the estimated amount of the required collateral being based on the figures for repurchase agreements entered into on the previous trading day. Through continuous communication with the portfolio managers of the various Funds, the trading desk is in a position to start placing definitive East Coast orders between 10:30 a.m. and 12:30 p.m. Since any one of the Funds many engage in portfolio trades up to the close of business in the securities markets in which securities in which it invests are traded, it is usually necessary to enter into West Coast repurchase agreements on a daily basis, which are available up to 3:00 p.m. Occasionally, in unusual circumstances, an East Coast repurchase agreement may be entered into as late as 3:00 p.m.

Each repurchase agreement is made by calling a bank, a non-bank government securities dealer or a major brokerage house and indicating the rate of interest and size of the desired repurchase agreement. Particular United States government obligations are then identified and the Fund custodian is notified. The securities are either wired to the account of the Fund custodian at the Boston Federal Reserve Bank, transferred to a sub-custodian account of the Fund at the particular bank entering into the repurchase agreement if that bank is a non-Boston bank or segregated on the records of the bank if it is the custodian bank of the Fund entering into the repurchase agreement. This procedure occurs on almost every trading day for each of the nineteen Funds which presently enter into repurchase agreements. Applicants state that the usual administrative charge (which is a processing fee only and not related to the size of the transaction) by a custodian bank for processing a

repurchase agreement is approximately $6.00 per transaction, that during the twelve months ended December 31, 1984, these fees amounted to approximately $393,000 for the Fund Applicants. Applicants further state that if the proposed joint account had been in place and assuming that daily balances in the account were invested in an average of four repurchase agreements per business day, the total transaction cost would have amounted to $12,000, an aggregate saving of approximately $381,000.

Applicants state the proposed joint account would operate as follows: (a) A separate custodian cash account would be established into which each Fund would cause its daily net cash balances to be deposited daily; (b) cash in the joint account would be invested solely in repurchase agreements collateralized by United States government obligations, i.e., obligations issued or guaranteed as to principal and interest by the government of the United States or by any of its agencies or instrumentalities ("U.S. Government Obligations"); (c) all investments held by the joint account would be valued on an amortized cost basis; (d) each Fund subject to an exemptive order permitting valuation of protfolio securities on the basis of the amortized cost valuation method would use the average maturity of the joint account for the purpose of computing the Fund's average portfolio maturity; (e) in order to ensure that there would be no opportunity for one Fund to use any part of a balance of the joint account credited to another fund, no Fund would be allowed to create a negative balance in the joint account for any reason, although it would be permitted to draw down its entire balance at any time; (f) each Fund would participate in the income earned or accrued in the joint account of the basis of the percentage of the total amount in the account on any day represented by its share of the account; (g) the Advisory Applicants would administer the investment of the cash balances in and operation of the joint account as part of its duties under its existing or future Advisory and Service Contract with each Fund and the administration of the joint account would be within the fidelity bond coverage required by section 17(g) of the Act and Rule 17g-1 thereunder.

Applicants state that the proposed joint trading account would not be distinguishable from any other custodian cash or securities account maintained by a Fund, except that monies from the Fund could be deposited in it on a commingled basis, so that it would not have any separate existence which would have indicia of a separate legal entity. Applicants further state that each Fund would automatically transfer its uninvested cash remaining after the conclusion of its daily trading activity into the account, and that the sole function of this account would be to provide a convenient way of aggregating what otherwise would be the one or more individual daily transactions for each Fund necessary to manage the daily uninvested cash balances of the Fund.

Applicants state that it is difficult to predict (i) the average size of the joint account, since the daily needs of each Fund will fluctuate (as indicated above, during the twelve months ended October 31, 1980, the average total daily amount invested by all of the Funds in repurchase agreements amounted to approximately $4,722,475,000, (ii) the average percent of the joint account which any single Fund's participation would represent, since fluctuations in both the size of the joint account and a particular Fund's needs are both likely to be substantial on any given day or (iii) the average percent of any single Fund's assets which might be deposited in the joint account, since the funds remaining uninvested on any given day can fluctuate widely as the result of, for example, sales of portfolio securities required by unexpectedly large redemptions, failure of a sizeable purchase transaction to settle at the anticipated time or security of appropriate porfolio securities for investment on any given day.

Applicants state that each Fund, by participating in the proposed joint account, and the Advisory Applicants by managing the proposed joint account, could be deemed to be "a joint participant" "in a transaction" within the meaning of section 17(d)(1) of the Act and that the proposed account could be deemed to be a "joint enterprise or other joint arrangement" within the meaning of Rule 17d-1 under the Act. On the basis of the determinations of the Board of Directors, Trustees, and Managing General Partners, as the case may be, of all the Funds, Applicants submit, however, that the criteria of Rule 17d-1 for issuance of an order under section 17(d) of the Act and Rule 17d-1 to allow the Funds to use the proposed joint trading account are met. Applicants further point out that each Fund would participate in the joint trading account on the same basis as every other Fund, and that the Advisory Applicants would have no monetary participation in the joint account, but would be responsible for investing amounts in the account, establishing accounting and control procedures and ensuring the equal treatment of each Fund.

The Fund Applicants point out that their respective governing bodies have considered the relative benefits to each of them and to the Advisory Applicants to be derived from the proposed arrangement and determined that use of the proposed joint account would be beneficial to each Fund that engages in repurchase transactions, that there is no basis on which to predicate greater benefit to any one Fund than to another under the proposed joint account, and that while the Advisory Applicants will benefit from use of the proposed joint account in possibly reduced clerical costs and added administrative convenience the primary beneficiaries of such account will be the Funds. It was also determined that the proposed method of operating the joint account will not result in any conflicts of interest between any of the Funds or between a Fund and any Advisory Applicant. On the basis of its consideration, the governing body of each Funds has determined that the operation of the proposed joint account will be free of any inherent bias favoring one Fund over another; the qualitative benefits to the Funds of the proposed joint account outweigh the inevitable quantitative disparities in the allocation of economic benefits among such Funds; and the anticipated benefits flowing to each Fund under the proposed joint account will fall within an acceptable range of fairness. They further determined that future participation in such joint trading account by one or more Funds which do not presently exist would not alter their conclusions with respect to participation by the present Funds and that it would be desirable to permit such future participation without the necessity of applying for an amended order.

Notice is further given that any interested person wishing to request a hearing on the application may, not later than June 17, 1985, at 5:30 p.m., do so by submitting a written request setting forth the nature of his interest, the reasons for his request, and the specific issues, if any, of fact or law that are disputed, to the Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of the request should be served personally or by mail upon applicants at the addresses stated above. Proof of service (by affidavit or, in the case of an attorney-at-law, by certificate) shall be filed with the request. After said date, an order disposing of the application will be issued unless the Commission orders a

hearing upon request or upon its own motion.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

John Wheeler,

Secretary.

[FR Doc. 85-13111 Filed 5-30-85; 8:45 am]
BILLING CODE 8010-01-M

[Release No. IC-14541; (File No. 812-5498)]

Association of Publicly Traded Investment Funds; Application

May 28, 1985.

Notice is hereby given that the Association of Publicly Traded Investment Funds ("Applicant"), 201 N. Charles Street, Baltimore, Maryland 21201, filed an application on March 18, 1983, and amendments thereto on January 31, 1984, July 17, 1984, November 15, 1984, and May 23, 1985, for an order pursuant to sections 6(c), 17(d) and 23(c)(3) of the Investment Company Act of 1940 ("Act") and Rule 17d-1 thereunder, granting limited exemptions to its members which are internally-managed, closed-end) management investment companies registered under the Act ("Internally-Managed Funds" or "Funds") from the provisions of sections 17(d), 18(d), and 23(a), (b), and (c) of the Act and the rules thereunder to the extent necessary to permit the Funds to offer their employees, including certain employees of their wholly-owned subsidiaries, deferred equity compensation in the form of stock options or stock appreciation rights ("SARs"). All interested persons are referred to the application on file with the Commission for a statement of the representations contained therein, which are summarized below. Such persons are referred to the Act for the complete text of the provisions referred to herein and in the application.

According to the application, Applicant's members are all registered, closed-end investment companies and include six Internally-Managed Funds that employ their own personnel and advisory staffs, either directly or through wholly-owned subsidiaries. Applicant claims that, in recent years, Internally-Managed Funds have faced increasing competition for qualified personnel from external managers of mutual funds, banks and broker-dealers, and other investment advisory organizations. Applicant further claims that, in contrast to registered investment companies, all these organizations are able to, and many do, offer their portfolio managers and other personnel various types of non-cash, deferred compensation, including opportunitites for equity participation in the enterprise. Applicant also represents that, over the years, the internally-managed sector of the investment company industry has steadily eroded as a number of Internally-Managed Funds have either "externalized" their management or merged into non-investment companies. According to the Applicant, a principal factor in many of these decisions was the lack of flexibility in compensation payable to employees of such Funds as a result of various provisions of the Act. Applicant contends, therefore, that the requested exemptions, if granted, would provide at least a partial solution to this competitive imbalance.

Applicant requests that the Commission exempt Internally-Managed Funds from the provisions of the Act to the extent necessary to permit such Funds to issue stock options and SARs to their employees or to employees of their wholly-owned subsidiaries where such employees provide management, administrative or investment advisory services to the parent Fund ("Fund employees").[1] Applicant proposes that the requested exemptive order require any stock options to comply both with the restrictions imposed on incentive stock options under section 422A of the Internal Revenue Code and the requirements imposed by section 61(a)(3)(B) of the Act with respect to stock options issued by business development companies ("BDCs"), except that the stock option exercise price could be adjusted to reflect any distributions of capital gains made by a Fund after the date of grant. Applicant further proposes that any SARs be issued in tandem with such stock options and subject to the same requirements and limitations. In addition, such SARs would be payable in cash or stock in the sole discretion of the Fund and then only to the extent that such exercise would not result in a greater dilution of the interests of existing shareholders than would result if the options to which the SARs relate had been exercised. Applicant proposes that the requested exemptions be subject to two further conditions. First, the stock option and SAR plans will be subject to the percentage limitations imposed on Small business Investment Companies ("SBICs"). Secondly, the directors of the Fund, including a majority of non-interested directors, will be required to review periodically the potential impact that the grant or exercise of stock options or SARs could have on the Fund's expenses and earnings and net asset value per share, such reviews to take place prior to any decisions to grant stock options or SARs but in no event less frequently than annually. Applicant asserts that stock options or SARs issued under the requested exemptive order would also have the following characteristics:

(1) Stock options or SARs would be granted under a plan approved by the shareholders.

(2) The plan would specify both the maximum number of shares to be issued pursuant to stock options or subject to SARs and the class of employees eligible to receive such grants.

(3) The issuance of stock options or SARs under such plans would be approved by a majority of the Fund's directors who have no financial interest in the plan or the transaction and also by a majority of the directors who are not interested persons of the Fund on the basis that such issuance is in the best interests of the Fund and its shareholders.

(4) The total number of shares of the Fund subject to stock options and SARs could not exceed 7½ percent of the outstanding voting securities of the Fund at the time the plan is adopted. In addition, no individual could receive options or SARs with respect to more than 35 percent of the shares which may be issued under the plan, nor may persons who are Fund employees at the time the plan is adopted receive options or SARs with respect to more than 66⅔ percent of the shares which may be issued under the plan.

(5) The directors of the Fund, including a majority of the directors who are not interested persons of the Fund, would review periodically the potential impact that the grant or exercise of stock options or SARs could have on the Fund's expenses and earnings and net asset value per share, such review to take place prior to any decisions to grant stock options or SARs but in no event less frequently than annually. Adequate procedures and records would be maintained to permit such review by the Fund's directors and the directors would have the authority to take appropriate steps if necessary to assure that neither the grant nor the exercise of stock options or SARs would have an adverse effect which is contrary to the interests of investors in these areas. The directors' authority would include, in addition to the authority to prevent or limit the grant of additional stock options or SARs, the authority to limit the number of stock options or SARs exercised in a given period of time should the directors conclude that the

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[1] Applicant proposes, for purposes of the application, that the term Fund employees include salaried officers and other employees who work substantially full-time for the Fund or subsidiaries and not include outside consultants or directors who do not serve in any other capacity.

adverse effect on the Fund's expenses or earnings, would be contrary to the interests of investors or that net asset value per share might be excessively diluted.

(6) Stock options or SARs would be granted within 10 years of the date that the plan is adopted or approved by shareholders, whichever is earlier. Such stock options or SARs must expire within 10 years after the date of grant. SARs would only be issued in tandem with stock options so that the exercise of the SAR cancels the stock option and vice versa. SARs must expire no later than the stock option to which they relate.

(7) Option prices must be at least equal to 100% of the fair market value of the stock on the date of grant. SARs would not be exercised for more than 100% of the appreciation on the underlying stock. The employee may pay for the stock to be received upon the exercise of an option with stock of the Fund. The amount payable upon exercise of an SAR may be payable in cash or in stock of the Fund or both, in the sole discretion of the Fund, except that the Fund will not permit the payment of cash upon the exercise of an SAR if the SAR is exercised within the two years after the date of grant. In addition, the Fund will pay or issue cash, common stock or a combination of both, only if and to the extent that such payment or issuance would not result in a greater dilution of the interests of existing shareholders than would occur if, instead of the SARs, the options to which they relate were exercised. The option exercise price or basis for the SAR may be adjusted downward to reflect any capital gains distributions subsequent to the date of issue, provided that in no event may the option exercise price or basis for the SAR be reduced below zero.

(8) Stock options must be nontransferable other than at death and must be exercisable during the employee's lifetime only by the employee. SARs may be exercised only when the option to which they relate is exerciseable and may be transfered only when the option is transferable and subject to the same conditions.

(9) No disposition of any stock acquired as the result of the exercise of a stock option or SAR may be made within two years after the date of the granting of the option or SAR or within one year of acquiring the stock, whichever is later.

(10) Stock options or SARs granted to persons who beneficially own more than 10% of the voting stock of the Fund at the date of grant must be exercised within 5 years at a price based on 110% of the stock's value at the date of grant.

(11) Stock options or SARs must be exercised in the order in which they were granted.

(12) Grantees must exercise the stock option or SARs while employees of the Fund or its subsidiary or within three months after ceasing to be an employee or within 12 months if separated from service because of disability.

(13) In any one calendar year, no employee may be granted options to purchase more than $100,000 of stock or SARs based on more than $100,000 of stock, both measured at the date of grant (although if the value of shares subject to such options or SARs in a given year is less than $100,000, one-half the difference may be carried forward for three years).

In addition to the foregoing, Applicant represents on behalf of its internally-managed members that, in the event the Commission acts favorably on the application, such members will comply with the standards or guidelines adopted by the Financial Accounting Standards Board for operating companies with respect to financial statement reporting of stock options and SARs, which Applicant understands require financial statement disclosure with respect to exercisable stock options and SARs. Applicant also represents that any future internally-managed member fund that issues stock options or SARs in reliance on the requested order would also be subject to the foregoing limitations and representation to the same extent as Applicant's present members.

Applicant argues that the limitations on the requested exemptive order will provide protections to investors against dilution of their pro rata interests in a Fund that are similar to those provided to investors in SBICs and greater than those applicable to stock options issued by BDCs and would assure that any purchase by a Fund of its own securities that may be deemed to occur in connection with the surrender and payment of stock appreciation rights would not unfairly discriminate against Fund shareholders. Applicant submits that stock options and SARs are a common form of deferred equity compensation and that their use by an investment company would neither confuse investors nor make it more difficult for them to ascertain the value of the Fund's shares. Applicant also argues that the two-year minimum holding period would discourage speculative portfolio investments solely for the purposes of creating a short-term, artificial increase in the market price of the Fund's stock. For the foregoing reasons, Applicant contends that granting the application would result in minimal, if any, adverse effect on investor interests protected by the Act and emphasizes that any minimal adverse impact would be more than outweighed by the benefits to investors that would result from permitting Internally-Managed Funds to compete for top quality personnel on a more equal footing with other advisory organizations.

Notice is further given that any interested person wishing to request a hearing on the application may, not later than June 18, 1985, at 5:30 p.m., do so by submitting a written request setting forth the nature of his interest, the reasons for his request, and the specific issues, if any, of fact or law that are disputed, to the Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of the request should be served personally or by mail upon Applicant at the address stated above. Proof of service (by affidavit or, in the case of an attorney-at-law, by certificate) shall be filed with the request. After said date an order disposing of the application will be issued unless the Commission orders a hearing upon request or upon its own motion.

By the Commission.

John Wheeler,

Secretary.

[FR Doc. 85-13113 Filed 5-30-85; 8:45 am]

BILLING CODE 8010-01-M

[Release No. IC-14535; (File No. 812-5541)]

Comerica Bank Canada; Application and Opportunity for Hearing

May 23, 1985.

Notice is hereby given that Comerica Bank Canada (the "Applicant"), 2 First Canadian Place, Toronto, Ontario, Canada M5X 1E3, filed an application on May 6, 1983, and two amendments thereto on May 22, 1985, for an order of the Commission, pursuant to section 6(c) of the Investment Company Act of 1940 (the "Act"), exempting the Applicant from all provisions of the Act. All interested persons are referred to the application on file with the Commission for a statement of the representations contained therein, which are summarized below, and to the Act for the text of the relevant provisions thereof.

The application states that the Applicant is a wholly-owned subsidiary of the Comerica Bank-Detroit ("CBD"), a banking corporation incorporated under the Michigan Banking Code of 1969 (the

"Code"), which in turn, is a wholly-owned subsidiary of Comerica Incorporated ("Comerica"), a Delaware corporation and a bank holding company registered under the Bank Holding Company Act of 1956. Applicant states that it provides a wide range of commercial banking and leasing services to Canadian companies and as of December 31, 1984, Applicant had total consolidated assets aggregating approximately $169 million (Canadian).

Applicant represents that it was created through the conversion of Indianhead Financial Services Limited into a Canadian chartered bank by letters patent issued on February 4, 1982 under the Bank Act (Canada) ("Bank Act"). Applicant states that from February 4, 1982 until December 23, 1982 it operated under the name "Detroit Bank Canada"; however, Applicant changed its name to "Comerica Bank Canada" in connection with the name change of Detroit Bank Corporation and The Detroit Bank and Trust Company to Comerica and CBD, respectively.

The application states that CBD operates a full-service commercial banking and trust business, which serves individuals, businesses and governmental entities throughout the United States and overseas. CBD and its predecessors have been engaged in commercial banking activities since 1849, and at December 31, 1983, CBD was the forty-fifth largest bank measured by total assets in the United States. As a Michigan State Bank, CBD is subject to pervasive regulation and must file a "call" report quarterly with the Commissioner of the Financial Institutions Bureau of the state. Further, it must file annually a consolidated statement of condition for all foreign branches, foreign banking subsidiaries and Edge Act Corporations with the Board of Governors of the Federal Reserve System ("FRB"). The basic corporate power of CBD are provided for in the Code.

According to the application, Comerica is a multi-bank holding company that operates 17 Michigan banking subsidiaries and 13 bank-related companies. Comerica is required to file with the FRB an annual report and the FRB may make periodic examinations of Comerica and its subsidiaries, including the Applicant. The application states that the common stock of Comerica is registered under the section 12(g) of the Securities Exchange Act of 1934 and is thereby subject to its requirements.

Applicant asserts that as a Canadian bank chartered under the Bank Act, it is subject to certain restrictions, which are administered by the Inspector General of Banks. Applicant represents that it is required to submit extensive financial reports to the Inspector General of Banks, which includes weekly statements of assets and liabilities, and monthly or quarterly financial reports on loans, deposits, reserves, domestic assets, revenues and expenses. In addition, the Applicant is required to prepare and publish annual financial statements showing assets, liabilities, revenues, expenses, appropriations for contingencies and shareholders equity.

Applicant states that it obtains the majority of its funds through the issuance of interest bearing certificates of deposit and discounted bearer deposit notes, both of which are unconditionally guaranteed by CBD. Applicant also states that, once the requested exemptive order is obtained, it will issue and sell unsecured commercial paper evidenced by notes ("notes") unconditionally guaranteed by CBD. Applicant represents that the notes will be prime quality, within the meaning of Release No. 4412 issued under the Securities Act of 1933 (the "1933 Act"), and sold in minimum denominations of $100,000, directly by the Applicant or through commercial paper dealers. The notes will be sold to institutional investors and other comparable purchasers who normally purchase commercial paper in large quantities. Additionally, the notes will not be advertised or offered for sale to the general public. Applicant anticipates that it will not have outstanding notes that exceed an aggregate principal amount of $200 million at any one time in the United States.

Applicant submits that the notes will be direct liabilities of the Applicant and, under applicable Canadian law, rank *pari passu* among themselves and equally with all other unsecured unsubordinated indebtedness of the Applicant, which includes liabilities to depositors. This will not include, however, amounts due to the government of Canada or any province thereof, in trust or otherwise, which will rank prior to the notes.

Applicant states that the notes will be exempt from registration under the 1933 Act pursuant to section 3(a)(2) thereof, which specifically exempts from registration the sale of notes guaranteed by a bank. Applicant asserts that it will sell the notes without registration under the 1933 Act in reliance upon an opinion of its United States counsel to the effect that, under the circumstances of the proposed offering, the offering of notes will qualify for the exemption provided by section 3(a)(2) of the 1933 Act. Applicant further assserts that it will not issue its notes until it has received such an opinion. Also, Applicant represents that the presently proposed issue of notes and any future issue of debt securities in the United States will have received, prior to issuance, one of the three highest investment grade ratings from at least one nationally recognized statistical rating organization and the Applicant's United States counsel will certify that such rating has been received.

Applicant undertakes that it will act to assure that each offeree will be provided, prior to purchase, with a memorandum describing the business of the Applicant, CBD and Comerica containing the most recently published audited financial statements of Comerica and the Applicant. Applicant states that such memoranda will include a brief section highlighting the material differences between Canadian accounting principles applicable to the Applicant and generally accepted accounting principles as employed by United States banks in the memorandum. Applicant states that such memoranda will be at least as comprehensive as those customarily used in offering commercial paper in the United States and will be updated periodically to reflect material changes in the business or financial status of Comerica and Applicant. Applicant consents to having any order granting the relief requested under section 6(c) of the Act expressly conditioned upon its compliance with all of its undertakings and representations regarding disclosure documents.

Applicant proposes that it may, in the future, offer other debt securities (but not shares of the Applicant's capital stock) in the United States. Applicant submits that future offerings by it in the United States will be made only if an applicable exemption from registration under the 1933 Act is available or a registration statement is made effective under the 1933 Act. Applicant represents that each such offering will be made on the basis of disclosure documents at least as comprehensive in their description of the Applicant, CBD and Comerica, and their business and financial condition as those used in the presently proposed offering. In no event will such disclosure documents be less comprehensive than is customary for United States offering of similar debt securities.

Applicant represents that it will appoint CBD or another financial institution in the United States to serve as its authorized agent to periodically issue the notes in the United States. The application states that the Applicant

will expressly submit to the jurisdiction of Michigan and United States courts sitting in Detroit, Michigan, for the purposes of any action brought on the notes or with respect to the offer and sale of the notes by means of the offering memoranda. Applicant states that it will appoint CBD, an affiliate, or a corporation with an office in Detroit, engaged in providing corporation services for attorneys, as agents to accept service of process in any action based on the notes or with respect to their offer and sale instituted in any state or federal court by a holder of a note. Applicant states that its appointment of an agent to accept service of process and consent to jurisdiction shall be irrevocable until principal and interest due on the note is paid. Such agent, however, will not be a trustee for the noteholders and will not have any responsibilities or duties as a trustee. Applicant represents that it will also be subject to suit in any other court in the United States which would have jurisdiction because of the manner of the offering of the notes or otherwise. Applicant represents that it will similarly consent to jurisidiction and appoint an agent for service of process in suits arising from any other offerings of debt securities that it may make in the United States.

Applicant contends that the capital structure of the Applicant, which is carefully regulated by Canadian banking authorities, could not be conformed to the provisions of the Act. Applicant states that it has and will have outstanding interest-bearing liabilities comprised of demand deposits, time deposits, commercial paper, and short and long term borrowings, all or which (except for possibly the deposits) would be considered "senior securities" for the purposes of the Act. Further, the Applicant represents that securities offerings by it in the United States would be conducted pursuant to the 1933 Act requirements for public offerings, private placements and offerings of exempt securities. Applicant asserts that the anti-fraud provisions of the 1933 Act would also be available for the protection of investors.

Finally, the Applicant believes that its request for an exemption is consistent with the protection of investors because the abuses against which the Act was directed are not present in this case. Applicant states that the potential for excessive management and brokerage fees, insider loans at highly favorable terms, and investments in companies in which managment has a personal interest and other forms of self-dealing is minimal because banking regulations prevent them or because banking operations do not lend themselves to such abuses.

Notice is further given that any interested person wishing to request a hearing on the application may, not later than June 17, 1985, at 5:30 p.m., do so by submitting a written request setting forth the nature of his interest, the reasons for his request, and the specific issues, if any, of fact or law that are disputed, to the Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of the request should be served personally or by mail upon Applicant at the address stated above. Proof of service (by affidavit or, in the case of an attorney-at-law, by certificate) shall be filed with the request. After said date an order disposing of the application will be issued unless the Commission orders a hearing upon request or upon its own motion.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

John Wheeler,

Secretary.

[FR Doc. 85-13116 Filed 5-30-85; 8:45 am]

BILLING CODE 8010-01-M

[Release No. IC-14536; (File No. 812-6080)]

HOMAC Mortgage Securities Corp.; Application

May 23, 1985.

Notice is hereby given that HOMAC Mortgage Securities Corporation ("Applicant"), 1110 Vermont Avenue, NW., Suite 510, Washington, D.C. 20005, filed an application on March 22, 1985, and an amendment thereto on May 22, 1985, for a Commission order, pursuant to section 6(c) of the Investment CompanyAct of 1940 ("Act"), exempting it from all provisions of the Act. All interested persons are referred to the application on file with the Commission for a statement of the representations contained therein, which are summarized below and to the Act for the text of all applicable provisions thereof.

Applicant states that it was formerly named HOMAC Conventional Securities Corporation and that it is a District of Columbia corporation wholly owned by Home Mortgage Access Holding Corporation ("HOMAC"), itself a District of Columbia corporation wholly owned by Salomon Brothers Holding Company Inc. Applicant states that it is organized for the limited purpose of investing in mortgage loans and mortgage-backed securities and providing a source of funds to homebuilders through the issuance of mortgage-backed securities ("Bonds"). Applicant is not otherwise authorized to trade or deal in securities or engage in any other activity. It is contemplated that Applicant will issue one or more series of Bonds ("Series") rated in one of the two highest categories by at least one nationally recognized statistical rating organization. Each Series will be secured by collateral pledged to secure only that Series ("Bond Collateral"). Applicant states that each Series will consist of one or more classes of Bonds and will be issued pursuant to an indenture between Applicant and an independent trustee ("Trustee"), as supplemented by an additional indenture for each Series.

Applicant states that the Bond Collateral will consist primarily of interests in some combination of the following (collectively, "Mortgage Collateral"): (1) Mortgage loans secured by first liens on single family (one-to-four-family) residences ("Pledged Loans"), together with payments that may become due under certain related mortgage insurance and hazard policies, (2) fully modified pass-through certificates guaranteed as to timely payment of principal and interest by the Government National Mortgage Association, mortgage pass-through securities guaranteed as to timely payment of principal and interest by the Federal National Mortgage Association or mortgage participation certificates guaranteed as to timely payment of interest and ultimate collection of principal by the Federal Home Loan Mortgage Corporation (collectively, "Guaranteed Mortgage Certificates") or (3) other pass-through certificates evidencing an undivided interest in pools of mortgage loans secured by first liens on single family (one-to-four-family) residences ("Private Mortgage Certificates"). Applicant states that Bond Collateral may also include certain reserve funds and other credit supports such as various types of insurance policies.

Applicant plans to issue two types of Bonds. In the first type ("Builder Bonds"), substantially all of the Mortgage Collateral, and in no event less than 80% in principal amount at the time of issuance, will be pledged to Applicant by certain single purpose corporations or partnerships affiliated with home building companies ("Builder Financial Affiliates"). Pursuant to funding agreements between Applicant and each Builder Financial Affiliate ("Funding Agreements"), (1) Applicant will make a loan from the net proceeds of the sale of each Series of Builder

Bonds to the Builder Financial Affiliates participating in that Series; (2) each such Builder Financial Affiliate will issue a promissory note or series of notes ("Collateralized Notes") evidencing the obligation to repay its loan; (3) each such Builder Financial Affiliate will pledge Mortgage Collateral to Applicant as security for its Collateralized Notes; and (4) each such Builder Financial Affiliate will be obligated to repay its Collateralized Notes by causing payments on the Mortgage Collateral to be made directly to the Trustee. Applicant will in turn pledge its entire right, title and interest in the Collateralized Notes and the Mortgage Collateral to the Trustee as security for such Series of Builder Bonds. It is anticipated that each Builder Financial Affiliate will distribute loan proceeds to an affiliated builder, which in turn is expected to use some or all of such proceeds to repay indebtedness incurred in connection with the origination of mortgage loans on residences constructed or financed by it.

Applicant plans to issue a second type of Bonds ("Whole Pool Bonds") which will be collateralized by the following Bond Collateral: (1) Mortgage Collateral purchased by Applicant in the open market or from affiliates of Phibro-Salomon Inc., and (2) Collateralized Notes and the related Mortgage Collateral pledged to Applicant by participating Builder Financial Affiliates pursuant to Funding Agreements. Applicant respresents that, at the time of issuance of each Series of Whole-Pool Bonds, at least 55% in principal amount of Bond Collateral for each such Series will consist of Pledged Loans or of Mortgage Certificates representing the entire beneficial interest in the underlying pool of mortgage loans, in either case owned by Applicant. Applicant represents further that the Mortgage Collateral for each Series will have a scheduled cash flow sufficient, together with reinvestment income thereon at assumed rates acceptable to the rating agencies that rate the Bonds, to make timely payment of Applicant's obligations to the holders of that Series.

Applicant states that each Series will be sold to institutional or retail investors through one or more investment banking firms, which may include affiliates of Applicant. It is contemplated that each Series will be registered under the Securities Act of 1933 (unless an appropriate exemption from registration is available) and sold pursuant to a prospectus or private placement memorandum.

The Bond Collateral securing each Series of Bonds, including Collateralized Notes and Mortgage Collateral (whether owned by the Applicant or pledged to secure Collateral Notes), will be held by the Trustee for that Series of Bonds. Each Builder Financial Affiliate will have the limited right to substitute Mortgage Collateral ("Substitute Collateral") in place of up to a specified principal amount of the Mortgage Collateral initially pledged as security for its Collateralized Notes. The Substitute Collateral will be required to have payment terms similar to, and in no event scheduled cash flows less than, those of the Mortgage Collateral it replaces. After giving effect to any such substitution, the scheduled cash flows on the Mortgage Collateral, together with the reinvestment income thereon at assumed rates acceptable to the rating agencies that rate the Bonds, will be sufficient to make payments on the Bonds in accordance with their terms. In no event will a Builder Financial Affiliate be permitted to substitute Private Mortgage Certificates or Pledged Loans in place in Guaranteed Mortgage Certificates. It will be a further condition of any such substitution that the outstanding ratings of the Bonds not be affected by such substitution. The rights of substitution will be within the sole discretion of each Builder Financial Affiliate. The Applicant will not exercise control over any Builder Financial Affiliate generally or with respect to the timing or substance of any such substitution. The Applicant will not have the right to substitute Mortgage Collateral in place of any Mortgage Collateral owned by it and initially pledged to secure any Series of Bonds.

Applicant asserts that it is not the type of entity intended to be regulated by the Act, and that its limited activities do not require the Act's protection. Applicant further asserts that its activities will supply capital to the real estate and mortgage markets and thereby facilitate the financing of housing.

Notice is further given that any interested person wishing to request a hearing on the application may, not later than June 17, 1985, at 5:30 p.m., do so by submitting a written request setting forth the nature of his interest, the reasons for his request, and the specific issues, if any, of fact or law that are disputed, to the Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of the request should be served personally or by mail upon Applicant at the address stated above. Proof of service (by affidavit or, in the case of an attonery-at-law, by certificate) shall be filed with the request. After said date an order disposing of the application will be issued unless the Commission orders a hearing upon request or upon its own motion.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

John Wheeler,

Secretary.

[FR Doc. 85-13119 Filed 3-30-85; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 34-22073; SR-MSE-85-1]

Self-Regulatory Organizations; Midwest Stock Exchange, Inc.; Order Approving Proposed Rule Change

May 23, 1985.

The Midwest Stock Exchange, Inc. ("MSE") submitted on January 30, 1985, copies of a proposed rule change pursuant to section 19(b) of the Securities Exchange Act of 1934 ("Act") and Rule 19b-4 thereunder, to clarify the Exchange's policies regarding the execution of limit orders. Currently, limit orders can be left with the specialist in one of two ways; *i.e.*, either a broker on the floor of the exchange can leave the limit order with the specialist or a limit order can be directed to the specialist through the MSE's Automated Execution ("MAX") system.[1] If the order is given to the specialist on the floor, the broker can negotiate the terms by which the order would be executed in the event of an excution in the primary market for the security at the limit price, so-called "primary market protection" ("PMP").[2] If the order is directed to the specialist via MAX, the specialist is required to execute 300 shares of limit orders for every 500 shares that trade at the limit order price in the primary market for the security in question.[3]

The proposed rule change is intended to clarify the execution priorities of limit orders left by floor brokers and MAX-directed limit orders in light of the 300 for 500 requirements for MAX orders. For example, under the proposal, when 500 shares print, in the primary market for a security, the specialist will be obligated to execute 300 shares of MAX-directed limit orders and 300 shares of the floor-directed limit orders.[4] A

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[1] For a discussion of MAX *see* Securities Exchange Act Release No. 18742, (May 17, 1982); 47 FR 22438, (May 24, 1982).

[2] Primary market protection rules are included in Article XX, Rule 34 of the MSE rules.

[3] The MSE's limit order execution criteria for use in MAX were approved by the Commission in Securities Exchange act Release No. 19782 (May 18, 1983) 48 FR 23505, (May 25, 1983) (SR-MSE-83-3).

[4] Prior to the implementation of the 300 for 500 criteria, the specialist would hold the MAX-directed

Continued

primary market execution of any trade in excess of 500 shares will result in multiple MAX limit orders (up to 300 shares each) being executed on a proportional 300 for 500 basis as well as a proportional amount of floor-directed limit orders.[5]

Notice of the proposal together with its terms of substance was given by the issuance of a Commission release (Securities Exchange Act Release No. 21810, March 5, 1985) and by publication in the **Federal Register** (50 FR 9738, March 11, 1985). No comments were received with respect to the proposed rule filing.

The Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange and, in particular, the requirements of Section 6 and the rules and the regulations thereunder.

It is therefore ordered, pursuant to section 19(b)(2) of the Act, that the above-mentioned proposed rule change be, and hereby is, approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

John Wheeler,

Secretary.

[FR Doc. 85-13115 Filed 5-30-85; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 34-22059; File No. SR-CBOE-85-21]

Self-Regulatory Organizations; Proposed Rule Change by Chicago Board Options Exchange, Inc., Relating to the Listing of Treasury Note Option Contracts

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78s(b)(1), notice is hereby given that on May 10, 1985, the Chicago Board Options Exchange, Incorporated, filed with the Securities and Exchange Commission the proposed rule change as described in Items I, II and III below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Text of the Proposed Rule Change

Pursuant to footnote 12 of Securities Exchange Act of 1934 (the Act) release number 18371, dated December 23, 1981, the Exchange files as a proposed rule change for approval to list Treasury note option contracts. The rules of chapter XXI will apply to Treasury note options with the following amendments.

(Note.—Deletions are bracketed; additions are italicized).

Terms of Treasury Security Options

(Treasury Bonds and Notes)

Rule 21.8(a) No change.

(b) *Expiration Month.* Unless the Board (or the Committee designated by the Board) otherwise provides and so indicates at the post at which the option is traded, Treasury security options shall expire in the months of March, June, September and December, *except for Treasury note options, which shall have four expiration months available: the two near-term months with two further out months on the March cycle.*

(c) *Exercise Price.* The exercise price of each series of Treasury security options shall be fixed at a percentage of principal amount which is an integral multiple of 1% for Treasury securities having a remaining term to maturity of [five] *six* years or less, or 2% for Treasury securities having a remaining term to maturity of more than [five] *six* years. No further change.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below and is set forth in sections (A), (B), and (C) below.

(A) *Procedures of the Self-Regulatory Organization*

The volume of government and corporate trading has increased substantially in securities with four to seven year maturities. Sixty percent of all corporate bonds issued in 1984 were ten-year maturities or less, and there is a natural demand for hedging these short maturities using a five-year note vehicle. In addition, liquidity in the Exchange's Treasury bond option contracts should be enhanced as a result of listing Treasury note option contracts.

The Treasury currently auctions $6.5 billion or more of five-year, two-month notes every quarter, generally at the end of February, May, August and November. The Exchange is seeking to list options on these issues, starting June 3, 1985.

The statutory basis for the proposed rule change is section 6(b)(5) of the Act, in that the proposed rule change and the other rules of chapter XXI are designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, and in general to protect investors and the public interest in connection with options covering underlying Treasury notes.

(B) *Self-Regulatory Organization's Statement on Burden on Competition*

The Exchange does not believe that the proposed rule change creates any burden on competition not necessary or appropriate under the Act.

(C) *Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received from Members, Participants or Others*

Comments have been neither solicited nor received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 35 days of the date of publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

(A) By order approve such proposed rule change, or

(B) Institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons making written submission should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 5th Street, N.W., Washington, D.C. 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5

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limit order until the floor-directed limit order was completely filled. Implementation of the 300 for 500 criteria was designed to recognize the difference between the expectations of member firms utilizing an automated execution system and those transmitting orders through their representatives on the trading floor, and to provide equitable execution priorities.

[5] For example, if 1,000 shares trade on the primary market, two MAX-directed limit orders of 300 shares each will be executed, together with 800 shares of floor-directed limit orders.

U.S.C. 552, will be available for inspection and copying at the Commission's Public Reference Room, 450 5th Street, NW., Washington, D.C. Copies of such filling will also be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization. All submissions should refer to the file number in the caption above and should be submitted by June 21, 1985.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

John Wheeler,

Secretary.

May 21, 1985.

[FR Doc. 85-13117 Filed 5-30-85; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 34-22068; File No. SR-CBOE-85-13]

Self-Regulatory Organizations; Proposed Rule Change by Chicago Board Options Exchange, Inc., Relating to Opening Rotations in OEX

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78s(b)(1), notice is hereby given that on April 23, 1985 the Chicago Board Options Exchange, Incorporated filed with the Securities and Exchange Commission the proposed rule change as described in Items, I, II and III below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Text of the Proposed Rule Change

The opening rotation procedure for S&P 100 Index ("OEX") Options shall ordinarily be held as follows. Rotations for third and fourth month options will be held in the southwest corner of the OEX pit, beginning with the fourth month and proceeding to third month options. Rotations will start at the lowest call strike price and alternate between calls and puts.

First and second month OEX options will be opened simultaneously with the back month options, opening the second month first, and starting at the lowest call strike price and alternating between calls and puts.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below and is set forth in sections (A), (B), and (C) below.

(A) *Self-Regulatory Organization's Statement of the Purpose of, and the Statutory Basis for, the Proposed Rule Change*

The foregoing text is a description of the opening rotation procedure for S&P 100 Index ("OEX") Options. Pursuant to the general authority in Exchange Rule 24.13, the Exchange has utilized this procedure on a pilot basis since December 24, 1984 during the pilot. Pursuant to discussions with the Commission staff, the Exchange agreed to file the procedure as a rule change under section 19(b) of the Securities Exchange Act of 1934 ("Exchange Act") if the pilot proved successful.

The pilot has been successful in reducing the average time for opening rotations in OEX from approximately 20 minutes to approximately 13 minutes. At the same time, during the pilot program virtually no complaints, informal or otherwise, have been received concerning the handling of orders as a result of the pilot rotation process. The simultaneous opening thus has worked well in reducing rotation time while maintaining effective opening rotation order handling. The net result has been to permit the first influx of orders in the most active options classs of any securities market to be handled efficiently and promptly and to ease the transition to open trading. The time for opening rotation is particularly critical because unexecuted orders can build up during opening rotation, and there is also typically a large influx of orders at the conclusion of opening rotation. A shortened opening rotation avoids some of the order build-up and thus permits easier handling of the orders at the conclusion of opening rotation.

The rule change is consistent with the provisions of the Exchange Act and, in particular, section 6(b)(5) of the Act in that the rule change is an effective mechanism for market efficiency and is designed for the protection of public investors.

(B) *Self-Regulatory Organization's Statement on Burden on Competition*

The Exchange does not believe that this proposed rule change will impose any burden on competition.

(C) *Self-Regulatory Organizaton's Statement on Comments on the Proposed Rule Change Received from Members, Participants or Others*

Comments were neither solicited nor received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 35 days of the date of publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

(A) By order approve such proposed rule change, or

(B) Institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons making written submission should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, Washington, D.C. 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying at the Commission's Public Reference Room, 450 Fifth Street, NW., Washington, D.C. copies of such filing will also be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization. All submissions should refer to the file number in the caption above and should be submitted by June 21, 1985.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

John Wheeler,

Secretary.

May 22, 1985.

[FR Doc. 85-13118 Filed 5-30-85; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 34-22060; File No. S7-433]

Joint Industry Plan; Notice of Receipt of an Amendment to the Consolidated Tape Association Plan

On December 1, 1983, the participants in the Consolidated Tape Association ("CTA") submitted to the Commission, pursuant to Rule 11Aa3-1 and 11Aa3-2

under the Securities Exchange Act of 1934 ("Act"), an amendment to the "Restated and Amended Plan submitted to the Securities and Exchange Commission pursuant to Rule 17a–15 under Securities Exchange Act of 1934" ("CTA Plan"). [1]

I. Description of the Amendment

The amendment increases the charges for stock tickers and the ticker network disseminating consolidated last sale data from the CTA. The amendment also establishes rates for communications facilities separate from the ticker display and ticker printer fees, to enable users to obtain last sale data from the CTA through communications facilities other than those of Western Union. These charges are contained in schedules A–1 through A–4, attached to the CTA Plan as Exhibit D.

The CTA participants indicate that the increased charges are necessary to recover retroactive rate increases for private line service provided by Western Union. The CTA Plan participants also indicate that separate rates of communications charges will encourage greater dissemination of ticker data, enable subscribers to make alternative communication arrangements that could possibly mitigate the impact of the pass-through of Western Union rate increases, and also set the stage for development of alternative pricing approaches charges.

The increased CTA ticker rates will be applied retroactive to February 1, 1985 for all users. The new rates for separate communications facilities will be applied retroactive to Febraruy 1, 1985 for high speed line users, and to May 1, 1985 for low speed line users.

II. Request for Comment

Pursuant to Rule 11Aa3–2(c)(3) under the Act, the amendment became effective upon filing with the Commission. The Commission however, may summarily abrogate the amendment within 60 days of its filing and require refiling and approval of the amendment by Commission order pursuant to Rule 11Aa3–2(c)(2), if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors and the maintenance of fair and orderly markets, to remove impediments to, and perfect the mechanisms of, a national market system, or otherwise in furtherance of the purposes of the Act.

In order to assist the Commission in determining whether to abrogate the amendment and to require refiling and further review, interested persons are invited to submit their views to John Wheeler, Secretary, Securities and Exchange Commission, 450 Fifth Street, N.W., Washington, D.C. 20549, within 21 days from the date of publication of this notice in the Federal Register. The amendment to the CTA Plan will be available for public inspection in the Commission's public reference room. All communications should refer to File No. S7–433.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[2]

John Wheeler,

Secretary.

May 22, 1985.

[FR Doc. 85–13109 Filed 5–30–85; 8:45 am]

BILLING CODE 8010–01–M

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[1] *See* Securities Exchange Act Release No. 16983 (July 16, 1980), 45 FR 49414.

[2] 17 CFR 200.30–3(a)(27).

[Release No. IC–14540; 812–6095]

Privatbanken A/S; Notice of Application for an Order Pursuant to Section 6(c) of the Act for an Exemption From All Provisions of the Act

May 24, 1985.

Notice is hereby given that Privatbanken A/S ("Applicant"), P.O. Box 1000, DK–2400, Copenhagen, N.V., filed an application on April 18, 1985, pursuant to Section 6(c) of the Investment Company Act of 1940 ("Act"), for an order of the Commission exempting Applicant from all provisions of the Act in connection with its issuance and sale of commercial paper in the United States. All interested persons are referred to the application on file with the Commission for a statement of the representations contained therein, which are summarized below, and to the Act for the text of the applicable statutory provisions.

Applicant states that it is a commercial bank organized and regulated under The Commercial Banks and Savings Bank Act of April 2, 1974 ("Bank Act"), and supervised by the Inspectorate of Commercial Banks and Savings Banks (the "Inspectorate") under the auspices of the Danish Ministry of Industry. Applicant represents that as of December 31, 1984, it was the third largest commercial bank in Denmark and the ninth largest privately held bank in Scandanavia, with assets of $5,942 million, deposits of $4,803 million and capital funds (including reserves and loan capital) of $442 million (amounts stated are on a consolidated basis, converted from Danish Kroner at the prevailing exchange rate on December 31, 1984, of $1 = DKr. 11.26). Applicant's outstanding loans of approximately $2,673 million constituted 45% of its assets. Although Applicant lends to a broad spectrum of borrowers, it concentrates on loans to trades and industry, which represent about 80% of total loans.

According to the application, the principal other elements of Applicant's assets consist of investments in bonds and balances with other banks. As of December 31, 1984, these two categories amounted to approximately 21% and 16% of total assets, respectively. Balances with banks almost all mature within 6 months and thus are represented to be a substantial source of liquidity. Over 90% of the bonds held by Applicant are quoted on the Copenhagen Stock Exchange, and consist mainly of short-term government bonds.

Applicant states that in addition to the deposit and lending business, it also engages in fiduciary activities, payment transmission, brokerage, leasing, foreign exchange, underwriting and syndication of loans. Applicant conducts its international banking through branches in New York, Singapore and the Cayman Islands; banking subsidiaries are located in London and Luxembourg, and representative offices are located in Los Angeles, Tokyo, Hong Kong, Fuengirola, (Spain) and San Paulo. Shares of Applicant are listed on the Copenhagen and Amsterdam Stock Exchange, and are held by an estimated 50,000 shareholders.

Applicant states that it is subject to regulation comparable to, and in certain important respects, more restrictive than that to which United States banks are subject. The Bank Act regulates, among other things, net capital, use of funds, and liquidity of commercial banks. Net capital, according to Applicant, may not be less than 8% of total commitments, including guarantees. The Bank Act also imposes diversification requirements designed to minimize risk and avoid concentration of lending. For example, a subject bank may not own shares, grant loans or guarantees against shares to any single entity exceeding in the aggregate, more than 15% of the bank's capital. Applicant's liquidity is regulated and assured through access to the Danish Central Bank. Applicant is examined regularly by, and must submit audited financial statements to, the Inspectorate. The Bank Act also requires that financial statements be audited by at least two auditors, one of which must be a state authorized public accountant.

Applicant proposes to issue and sell in the United States unsecured prime quality commercial paper notes, in bearer form and denominated in United States dollars ("Notes"). The Notes will provide Applicant with an alternative source of United States dollars to supplement its other sources currently obtained by Applicant in the Eurodollar market and through its New York branch. The Notes will be sold in minimum denominations of $100,000, in an outstanding amount not intended to exceed $300 million at any one time. They will be offered through a commercial paper placing agent to institutional investors and individuals who normally purchase commercial paper notes, which will enable the Notes to qualify for the exemption from registration requirements under section 3(a)(3) of the Securities Act of 1933 ("Securities Act"). Applicant undertakes to ensure that the placement agent will provide each offeree of the Notes, prior to completing purchase, with a memorandum ("Memorandum") which briefly describes the business of Applicant and contains its most recent publicly available fiscal year balance sheet and profit and loss statement, which will have been audited in such a manner as is customarily done for Applicant by its Danish auditors. The Memorandum will describe differences that are material to investors, if any, between the accounting principles applied by Applicant and GAAP employed by banks in the United States. The Memorandum will be at least as comprehensive as those customarily used by United States bank holding companies in offering commercial paper in the United States, and will be updated periodically to reflect material changes in the financial condition of Applicant.

The Notes will be of prime quality, negotiable and a type eligible for discount by the Federal Reserve Board and will arise out of, or the proceeds of which will be used for, current transactions. The Notes will contain no provision for payment on demand, extension, renewal or automatic rollover either at the option of Applicant or the holder.

Applicant states it will not issue and sell the Notes until it has received an opinion of United States legal counsel to the effect that, under the circumstances of the proposed offering, the Notes would be entitled to the section 3(a)(3) Securities Act exemption. Applicant does not request Commission review or approval of counsel's opinion letter. Applicant states that it is not subject to the reporting requirements of the Securities Exchange Act of 1934, and will not become subject to such requirements in connection with the issuance or sale of the Notes.

Applicant represents that the Notes and all future issues of debt securities will have received prior to issuance one of the three highest investment grades from at least one nationally recognized statistical rating organization and that U.S. counsel will have certified that such rating has been received; provided, however, that no such rating will be obtained if in the opinion of U.S. counsel, having taken into account for purposes thereof the doctrine of integration referred to in Rule 502 under the Securities Act and various public releases of the Commission, an exemption from registration is available under section 4(2) of the Securities Act.

The Notes will be direct liabilities of Applicant, will rank *pari passu* among themselves and equally with all other unsecured indebtedness of Applicant (including liabilities to depositors but excluding subordinated debt of Applicant which would rank below the Notes) and will rank prior to equity securities of Applicant.

Applicant will appoint a bank or other financial institution in the United States as its authorized agent to issue the Notes from time to time. Applicant will appoint either such bank or financial institution or other person who normally acts in such capacity to accept service of process ("Process Agent") which may be served in any action based on the Notes and instituted by the holder of such Note in any state or federal court. Applicant will expressly accept the jurisdiction of any state or federal court in the City and State of New York in respect of any such action. Such appointment of Process Agent and consent to jurisdiction will be irrevocable until all amounts due and to become due in respect of the Notes have been paid by Applicant. Applicant will also be subject to suit in any other court in the U.S. which would have jurisdiction because of the manner of offering of the Notes, or otherwise. The authorized agent will not be a trustee for the Noteholders and will not have any responsibilities or duties to act for such holders as would a trustee. Applicant consents to any order granting the application being expressly conditioned on Applicant's compliance with these undertakings and with future offerings which Applicant may from time to time make.

Applicant may offer other securities, such as debt, certificates of deposits, banker's acceptances and letters of credit supporting commercial paper issued by other companies, but not including shares of its capital stock, for sale in the United States ("Securities"). Applicant undertakes that any future offering of the Securities in the United States will be done on the basis of disclosure documents at least as comprehensive in their description of Applicant, its business and financial condition as those customarily used by United States banks and bank holding companies in offering similiar securities under similar circumstances and undertakes to ensure that each offeree of Securities will be provided with such disclosure documents. Applicant also undertakes that with respect to any offering of Securities made pursuant to a registration statement under the Securities Act, Applicant will furnish disclosure documents to such offeree and in a manner as may be required by the Securities Act. Applicant also states that any offering of Securities will be made with due regard to the integration doctrine under the Securities Act.

Applicant also undertakes, in connection with the offering of its Securities, to appoint a United States person as Process Agent to accept any process which may be served in any action based on the Securities and instituted in any state or federal court by the holder thereof. Applicant also expressly undertakes to accept jurisdiction of any state or federal court in the City and State of New York in respect of any such action. Such appointment of Process Agent and consent to jurisdiction will be irrevocable as long as Securities remain outstanding and until all amounts due and to become due in respect thereof have been paid. Applicant also states it will be subject to suit in any other court in the United States which would have jurisdiction because of the offereing, or otherwise, in connection with the Securities.

Applicant asserts that the application for exemption from the Act is consistent with the protection of investors and is appropriate in the public interest because the particular abuses against which the Act was directed are not present, including excessive management and brokerage fees, insider loans on favorable terms and other forms of self-dealing. Applicant further asserts that its activities are extensively regulated by Danish governmental authorities; that the requested exemption would benefit not only Applicant but United States investors, and that absent an exemption, Applicant would be precluded from selling securities in the United States.

Notice is further given that any interested person wishing to request a hearing on the application may, not later than June 18, 1985, at 5:30 p.m., do so by submitting a written request setting forth the nature of his/her interest, the reasons for the request, and the specific issues of fact or law that are disputed, to the Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of the request should be served personally or by mail upon Applicant at the address stated above. Proof of service (by affidavit or, in the case of an attorney-at-law, by certificate) shall be filed with the request. After said date, an order disposing of the application will be issued unless the Commission orders a hearing upon request or upon its own motion.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

John Wheeler,

Secretary.

[FR Doc. 85-13114 Filed 5-30-85; 8:45 am]

BILLING CODE 8010-01-M

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

Denial of Defect Petitions; Morrison, Perlah, Leitner

This notice sets forth the reasons for denial of four petitions submitted to NHTSA under section 124 of the National Traffic and Motor Vehicle Safety Act (15 U.S.C. 1381 *et seq.*).

Michael R. Morrison of Rockford, Ill., asked the agency to investigate corrosion problems allegedly existing on the undercarriage of 1978 and later model Datsun 280Z passenger cars. The agency reviewed its files for reports of undercarriage corrosion in 280Z vehicles, finding only two. In neither of these reports, which both involved 1977 models, was there a front suspension collapse or separation, and neither involved an accident. In 1983 NHTSA closed an earlier investigation into corrosion problems of Datsun vehicles (1971–73 240Z cars, 1974–75 B210 vehicles) without finding that a safety related defect existed, concluding that such separation as may occur with corrosion is partial in nature and does not occur suddenly and without warning. In consideration of all the available information, the agency concluded that there was no reasonable possibility that the manufacturer would be ordered to recall the vehicles at the conclusion of an investigation, and the petition was denied on March 26, 1985.

The agency received a petition from Philip M. Perlah of Westport, Conn., asking to investigate an alleged brake power booster failure in 1980 Volkswagen Dasher vehicles. Agency files revealed six complaints about the brake system from a vehicle population totalling approximately 32,000 1980 Dashers. Random failures of components in 4 to 5 year old cars are considered maintenance-related rather than as safety defects. Further, in the event of a power brake failure, the 1980 Dasher, and all passenger cars, were required to be manufactured to stop within certain distances established by Federal Motor Vehicle Safety Standard No. 105 *Hydraulic Brake Systems*. The agency had conducted compliance tests of the 1980 Dasher and found that it met these requirements. There was no reasonable possibility that at the end of an investigation Volkswagen would be required to recall the vehicles, and on March 12, 1985, Mr. Perlah's petition was denied.

Mr. Perlah had also complained to the agency that his Dasher hubcaps had fallen off during normal driving conditions and that this presented a safety hazard by distracting the driver of the car, and those of vehicles following. Because this appeared to be an isolated instance with speculative safety consequences, the agency declined to investigate, and so informed Mr. Perlah on March 18, 1985.

Horst Leitner of Tustin, California, called the agency's attention to an alleged motorcycle problem, ". . . the drive input or torque reaction input and the suspension, which loads and unloads suspension and brings a motorcycle out of control in critical situations." The NHTSA searched its computerized consumer complaint file and found no record of any motorcycle accident in which the rear suspension torque reaction effect was cited as a causal factor. The agency denied the petition on February 25, 1985, concluding that it could not find that current motorcycle rear suspension design constituted a safety related defect.

Authority: Sec. 124, Pub. L. 93-492; 88 Stat. 1470 (15 U.S.C. 1410a); delegations of authority at 49 CFR 1.50 and 501.8.

Issued on: May 3, 1985.

George L. Parker,

Associate Administrator for Enforcement.

DEPARTMENT OF THE TREASURY

Office of the Secretary

[Department Circular; Public Debt Series—No. 16-85]

Treasury Notes of August 15, 1990; Series K-1990

Washington, May 22, 1985.

1. Invitation for Tenders

1.1. The Secretary of the Treasury, under the authority of Chapter 31 of Title 31, United States Code, invites tenders for approximately $7,000,000,000 of United States securities, designated Treasury Notes of August 15, 1990, Series K-1990 (CUSIP No. 912827 SG 8), hereafter referred to as Notes. The Notes will be sold at auction, with bidding on the basis of yield. Payment will be required at the price equivalent of the yield of each accepted bid. The interest rate on the Notes and the price equivalent of each accepted bid will be determined in the manner described below. Additional amounts of the Notes may also be issued at the average price to Federal Reserve Banks, as agents for foreign and international monetary authorities.

2. Description of Securities

2.1. The Notes will be dated June 4, 1985, and will accrue interest from that date, payable on a semiannual basis on February 15, 1986, and each subsequent 6 months on August 15 and February 15 through the date that the principal becomes payable. They will mature August 15, 1990, and will not be subject to call for redemption prior to maturity. In the event any payment date is a Saturday, Sunday, or other nonbusiness day, the amount due will be payable (without additional interest) on the next-succeeding business day.

2.2. The Notes are subject to all taxes imposed under the Internal Revenue Code of 1954. The Notes are exempt from all taxation now or hereafter imposed on the obligation or interest thereof by any State, any possession of the United States, or any local taxing authority, except as provided in 31 U.S.C. 3124.

2.3. The Notes will be acceptable to secure deposits of Federal public monies. They will be acceptable in payment of Federal taxes.

2.4. Notes in registered definitive form will be issued in denominations of $1,000, $5,000, $10,000, $100,000, and

$1,000,000. Notes in book-entry form will be issued in multiples of those amounts. Notes will not be issued in bearer form.

2.5. Denominational exchanges of registered definitive Notes, exchanges of Notes between registered definitive and book-entry forms and transfers will be permitted.

2.6. After July 13, 1985, the Treasury may issue, through the Federal Reserve Bank of New York, as fiscal agent of the United States, additional amounts of the Notes offered in this circular in exchange for equal par amounts of the Foreign-Targeted Treasury Notes of August 15, 1990, Series L-1990 (CUSIP No. 912827 SH 6). Such exchanges must be conducted in accordance with Section 10 of the Department Circular, Public Debt Series—No. 17-85 dated May 21, 1985.

2.7. The Department of the Treasury's general regulations governing United States securities apply to the Notes offered in this circular. These general regulations include those currently in effect, as well as those that may be issued at a later date.

3. Sale Procedures

3.1. Tenders will be received at Federal Reserve Banks and Branches and at the Bureau of the Public Debt, Washington, D.C. 20239, prior to 1:00 p.m., Eastern Daylight Saving time, Wednesday, May 29, 1985. Noncompetitive tenders as defined below will be considered timely if postmarked no later than Tuesday, May 28, 1985, and received no later than Tuesday, June 4, 1985.

3.2. The par amount of Notes bid for must be stated on each tender. The minimum bid is $1,000, and larger bids must be in multiples of that amount. Competitive tenders must also show the yield desired, expressed in terms of an annual yield with two decimals, e.g., 7.10%. Fractions may not be used. Noncompetitive tenders must show the term "noncompetitive" on the tender form in lieu of a specified yield.

3.3. A single bidder, as defined in Treasury's single bidder guidelines, shall not submit noncompetitive tenders totaling more than $1,000,000. A noncompetitive bidder may not have entered into an agreement, nor make an agreement to purchase or sell or otherwise dispose of any noncompetitive awards of this issue prior to the deadline for receipt of tenders.

3.4. Commercial banks, which for this purpose are defined as banks accepting demand deposits, and primary dealers, which for this purpose are defined as dealers who make primary markets in Government securities and are on the list of reporting dealers published by the Federal Reserve Bank of New York, may submit tenders for accounts of customers if the names of the customers and the amount for each customer are furnished. Others are permitted to submit tenders only for their own account.

3.5. Tenders for their own account will be received without deposit from commercial banks and other banking institutions; primary dealers, as defined above; Federally-insured savings and loan associations; States, and their political subdivisions or instrumentalities; public pension and retirement and other public funds; international organizations in which the United States holds membership; foreign central banks and foreign states; Federal Reserve Banks; and Government accounts. Tenders from all others must be accompanied by full payment for the amount of Notes applied for, or by a guarantee from a commercial bank or a primary dealer of 5 percent of the par amount applied for.

3.6. Immediately after the deadline for receipt of tenders, tenders will be opened, followed by a public announcement of the amount and yield range of accepted bids. Subject to the reservations expressed in Section 4, noncompetitive tenders will be accepted in full, and then competitive tenders will be accepted, starting with those at the lowest yields, through successively higher yields to the extent required to attain the amount offered. Tenders at the highest accepted yield will be prorated if necessary. After the determination is made as to which tenders are accepted, an interest rate will be established, at a ⅛ of one percent increment, which results in an equivalent average accepted price close to 100.000 and a lowest accepted price above the original issue discount limit of 98.750. That stated rate of interest will be paid on all of the Notes. Based on such interest rate, the price on each competitive tender allotted will be determined and each successful competitive bidder will be required to pay the price equivalent to the yield bid. Those submitting noncompetitive tenders will pay the price equivalent to the weighted average yield of accepted competitive tenders. Price calculations will be carried to three decimal places on the basis of price per hundred, e.g., 99.923, and the determinations of the Secretary of the Treasury shall be final. If the amount of noncompetitive tenders received would absorb all or most of the offering, competitive tenders will be accepted in an amount sufficient to provide a fair determination of the yield. Tenders received from Government accounts and Federal Reserve Banks will be accepted at the price equivalent to the weighted average yield of accepted competitive tenders.

3.7. Competitive bidders will be advised of the acceptance of their bids. Those submitting noncompetitive tenders will be notified only if the tender is not accepted in full, or when the price at the average yield is over par.

4. Reservations

4.1. The Secretary of the Treasury expressly reserves the right to accept or reject any or all tenders in whole or in part, to allot more or less than the amount of Notes specified in Section 1, and to make different percentage allotments to various classes of applicants when the Secretary considers it in the public interest. The Secretary's action under this Section is final.

5. Payment and Delivery

5.1. Settlement for the Notes allotted must be made at the Federal Reserve Bank or Branch or at the Bureau of the Public Debt, wherever the tender was submitted. Settlement on Notes allotted to institutional investors and to others whose tenders are accompanied by a guarantee as provided in Section 3.5. must be made or completed on or before Tuesday, June 4, 1985. Payment in full must accompany tenders submitted by all other investors. Payment must be in cash; in other funds immediately available to the Treasury; in Treasury bills, notes, or bonds maturing on or before the settlement date but which are not overdue as defined in the general regulations governing United States securities; or by check drawn to the order of the institution to which the tender was submitted, which must be received from institutional investors no later than Friday, May 31, 1985. In addition, Treasury Tax and Loan Note Option Depositaries may make payment for the Notes allotted for their own accounts and for accounts of customers by credit to their Treasury Tax and Loan Note Accounts on or before Tuesday, June 4, 1985. When payment has been submitted with the tender and the purchase price of the Notes allotted is over par, settlement for the premium must be completed timely, as specified above. When payment has been submitted with the tender and the purchase price is under par, the discount will be remitted to the bidder.

5.2. In every case where full payment has not been completed on time, an amount of up to 5 percent of the par amount of Notes allotted shall, at the discretion of the Secretary of the

Treasury, be forfeited to the United States.

5.3. Registered definitive securities tendered in payment for the Notes allotted are not required to be assigned if the new Notes are to be registered in the same names and forms as appear in the registrations or assignments of the securities surrendered. When the new Notes are to be registered in names and forms different from those in the inscriptions or assignments of the securities presented, the assignment should be to "The Secretary of the Treasury for (Notes offered by this circular) in the name of (name and taxpayer identifying number)". Specific instructions for the issuance and delivery of the new Notes, signed by the owner or authorized representative, must accompany the securities presented. Securities tendered in payment must be delivered at the expense and risk of the holder.

5.4. Registered definitive Notes will not be issued if the appropriate identifying number as required on tax returns and other documents submitted to the Internal Revenue Service (e.g., an individual's social security number or an employer identification number) is not furnished. Delivery of the Notes in registered definitive form will be made after the requested form of registration has been validated, the registered interest account has been established, and the Notes have been inscribed.

6. General Provisions

6.1. As fiscal agents of the United States, Federal Reserve Banks are authorized, as directed by the Secretary of the Treasury, to receive tenders, to make allotments, to issue such notices as may be necessary, to receive payment for, to issue and deliver the Notes on full-paid allotments, and to maintain, service, and make payment on the Notes.

6.2. The Secretary of the Treasury may at any time supplement or amend provisions of this circular if such supplements or amendments do not adversely affect existing rights of holders of the Notes. Public announcment of such changes will be promptly provided.

6.3. The Notes issued under this circular shall be obligations of the United States, and, therefore, the faith of the United States Government is pledged to pay, in legal tender, principal and interest on the Notes.

Gerald Murphy,

Acting Fiscal Assistant Secretary.

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[Department Circular; Public Debt Series No. 17-85]

Foreign-Targeted Treasury Notes of August 15, 1990; Series L-1990

Washington, D.C., May 21, 1985.

Section 1. Invitation for Tenders

1.1. Introduction. The Secretary of the Treasury, pursuant to the authority granted him by Chapter 31 of Title 31, United States Code, invites tenders for up to $1,000,000,000 of United States securities designated Foreign-Targeted Treasury Notes of August 15, 1990, Series L-1990 (CUSIP No. 912827 SH 6) (collectively the "Notes", individually a "Note"). The Notes will be auctioned in the United States on May 29, 1985, by competitive bidding only. Payment must be made as set forth below in United States dollars. The stated interest rate on the Notes and the price equivalent of each accepted bid will be determined in the manner described in Section 6.7.

1.2. Targeted Nature of the Notes. Treasury will sell the Notes only to Bidders as defined in Section 2.1. Bidders must acquire the Notes only for themselves or on behalf of, or for sale or other transfer to, United States Aliens as defined in Section 2.19. or foreign branches of United States Financial Institutions. In addition, any transfers by Bidders after July 13, 1985, to Qualified Holders as defined in Section 2.15. that are United States Persons must be consistent with the tax certification described in Section 11.2.

1.3. Transfer Restrictions. Before July 14, 1985, the Notes may not be sold or transferred to a United States Person as defined in Section 2.20. other than a foreign branch of a United States Financial Institution. Each Bidder for the Notes must certify on the tender form for the Notes that it will not sell, contract to sell, or otherwise transfer the Notes to a United States Person, other than a foreign branch of a United States Financial Institution, before July 14, 1985. Each Bidder further agrees that, if it sells, contracts to sell, or otherwise transfers the Notes before July 14, 1985, it will confirm to such purchaser or transferee in writing that (i) there is a restriction on sale or other transfer to United States Persons other than foreign branches of United States Financial Institutions and (ii) such confirmation is required to be given to any subsequent purchaser or transferee that acquires the Notes before July 14, 1985. The transfer restriction of this Section 1.3. is in addition to the tax certification of a Bidder described in Section 11.2. As described in Section 11.2., the Bidder must certify that, as of the date of issuance, Notes acquired by the Bidder will not be owned by a United States Person, other than a foreign branch of a United States Financial Institution, and that the Notes are not being acquired on behalf of such a person, or for offer to resell or for resale to such a person. This tax certification requirement is independent of the transfer restriction of this Section 1.3.

1.4. Tax Treatment. The Notes are subject to United States federal income tax as provided in the Internal Revenue Code as defined in Section 2.8. Interest on the Notes paid to a United States Alien is not subject to United States federal income tax if the conditions of section 871(h) or 881(c) of the Internal Revenue Code and the regulations related thereto are satisfied. The discussion in Section 11 is only a summary of the currently applicable tax requirements. The tax consequences of holding the Notes derive solely from the Internal Revenue Code and regulations now or hereafter promulgated thereunder.

Section 2. Definitions

The following terms, whenever used and capitalized in this offering circular, shall have the meanings set forth below.

2.1. Bidder. (i) A United States Alien, other than an individual, or (ii) a foreign branch of a United States Financial Institution.

2.2. Definitive Notes. Notes (as defined in Section 1.1.) evidenced by a certificate that is inscribed with the name of the Registered Owner.

2.3. Domestic Notes. Companion securities sold at auction on May 29, 1985, and designated Treasury Notes of August 15, 1990, Series K-1990 (CUSIP No. 912827 SG 8).

2.4. Exchange Adjustment. As defined in Section 10.3.

2.5. Financial Institution. A securities clearing organization, a bank, or other financial institution, other than an International Financial Organization, that holds customers' securities in the ordinary course of its trade or business, within the meaning of section 871(h)(4)(B) of the Internal Revenue Code.

2.6. FRB NY. The Federal Reserve Bank of New York, located at 33 Liberty Street, New York, New York.

2.7. Holding Institution. A Financial Institution or an International Financial Organization that has a book-entry account with FRB NY.

2.8. Internal Revenue Code. The United States Internal Revenue Code of 1954, as amended from time to time (Title 26 of the United States Code).

2.9. International Account. A book-entry account of a Holding Institution with FRB NY for which records are maintained by FRB NY that specifically identify a foreign Financial Institution, a foreign branch of a United States Financial Institution, or an International Financial Organization. A United States branch of a foreign Financial Institution may not establish an International Account. A United States subsidiary of a foreign Financial Institution may establish an International Account in accordance with the requirements of the first sentence of this Section 2.9.

2.10. International Financial Organization. A central bank or monetary authority of a foreign government or a public international organization of which the United States is a member that is characterized as a foreign corporation for United States federal income tax purposes to the extent that such central bank, authority, or organization holds Notes solely for its own account and is exempt from United States federal income tax under section 892 or 895 of the Internal Revenue Code.

2.11. Note or Notes. As defined in Section 1.1.

2.12. Payment Guarantee. A guarantee of payment to Treasury for an amount equal to 5 percent of the par amount of Notes for which a tender is submitted by or on behalf of a Bidder.

2.13. Paying Institution. A Financial Institution that has a reserve, clearing, or other dollar account with FRB NY and that has been designated on the tender form to pay for the Notes or an International Financial Organization designated to pay for Notes for which it is the Registered Owner.

2.14. Primary Dealer. A dealer on the list of reporting dealers published by FRB NY.

2.15. Qualified Holder. Before July 14, 1985, a United States Alien or a foreign branch of a United States Financial Institution and after July 13, 1985, a United States Alien or a United States Person.

2.16. Registered Owner. The Financial Institution or International Financial Organization specifically identified on the records of FRB NY maintained for an International Account, or, for Notes held in a book-entry account other than an International Account, the Holding Institution, or, for a Definitive Note, the person whose name is inscribed on the Note and recorded on the books of FRB NY.

2.17. Secretray. The Secretary of the United States Department of the Treasury, the legal successor of the Secretary, and delegates of the Secretary or such legal successor.

2.18. Treasury. The United States Department of the Treasury.

2.19. United States Alien. A corporation, partnership, individual, or fiduciary that for United States federal income tax purposes, as to the United States (including its territories, possessions, all areas subject to its jurisdiction and the Commonwealth of Puerto Rico), is a foreign corporation, a nonresident alien individual, a nonresident alien fiduciary of a foreign estate or trust; a foreign partnership one or more of the members of which is, for United States federal income tax purposes, a foreign corporation, a nonresident alien individual, or a nonresident alien fiduciary of a foreign estate or trust; or an International Financial Organization.

2.20. United States Person. A citizen, national, or resident of the United States; a corporation, partnership, or other entry created or organized in or under the laws of the United States or any political subdivision thereof; or an estate or trust that is subject to United States federal income tax regardless of the source of its income.

2.21. United States-Related Person. A United States Person, a controlled foreign corporation within the meaning of section 957(a) of the Internal Revenue Code, or a foreign corporation 50 percent or more of whose gross income from all sources for the three-year period ending with the close of the taxable year preceding the subject payment was effectively connected with the conduct of a trade or business in the United States.

2.22. Withholding Agent. The United States Person that would be required to deduct and withhold United States federal income tax from interest on the Notes under section 1441(a) or 1442(a) of the Internal Revenue Code if such interest were not portfolio interest within the meaning of sections 871(h) and 881(c) of the Internal Revenue Code.

Section 3. Fiscal Agent as Registrar

3.1. Fiscal Agent as Registrar. FRB NY is designated to act on behalf of Treasury as the exclusive fiscal agent and, as such, registrar for this issue. FRB NY is authorized to receive tender forms and payment, issue the Notes, maintain and service securities accounts, pay principal and interest, conduct exchange and conversion transactions, redeem the Notes at maturity, and otherwise act as necessary in its capacity as fiscal agent.

Section 4. Description of the Notes

4.1. The Notes. The Notes will be issued as direct obligations of the United States of America. The Notes will be issued in book-entry form on June 4, 1985, and will bear interest in accordance with the accrual formula for Notes paying annual interest set forth at Attachment D, payable on an annual basis on August 15, 1986, and on August 15 of each subsequent year through the maturity date. The notes will mature on August 15, 1990, and are not subject to call or redemption prior to maturity. After July 13, 1985, the Notes may be converted to Definitive Notes as described in Section 9. Interest and principal on the Notes will be paid in United States dollars in accordance with the procedures set forth in Sections 8.5. and 9.3. After July 13, 1985, the Notes will be acceptable to secure deposits of public monies of the United States.

4.2. Transfer and Exchange. Ownership of the Notes is transferable as provided in Sections 8 and 9. The Notes may be exchanged for Domestic Notes as provided in Section 10. If the applicable requirements of Section 11 have been complied with, after July 13, 1985, the Notes may be acquired and owned by a United States Person, and Domestic Notes acquired in exchange for the Notes may be acquired and owned by either a United States Alien or a United States Person.

4.3. No Gross-up. There will be no future increase in payments to offset any changes in tax requirements affecting these Notes.

4.4. Denominations. Definitive Notes will be issued in denominations of $1,000, $5,000, $10,000, $100,000, and $1,000,000. Notes in book-entry form will be issued in those denominations or in multiples of those amounts.

4.5. Governing Regulations. Treasury's general regulations governing United States securities [Part 306 of Title 31 of the Code of Federal Regulations) apply to the Notes offered in this offering circular, except as otherwise provided herein.

4.6. Long Coupon. There will be no interest payment on August 15, 1985, for the interest accrual period on the Notes from June 4, 1985, to August 15, 1985. Interest earned during this period will be added to the annual coupon payable on August 15, 1986, and paid on that date. The amount of interest earned from June 4, 1985, to August 15, 1985, will be determined using the day count conventions [as defined in Attachment D) for securities paying annual interest. Application of these conventions means that the amount of interest earned during the first interest accrual period will be computed by multiplying the amount of the regular annual coupon by the fraction $^{71}/_{360}$.

Section 5. Domestic Notes

5.1. Domestic Auction. On May 29, 1985, Treasury also will auction Domestic Notes that will be issued on the same day as the Notes and will have the same maturity date and stated interest rate as the Notes. After July 13, 1985, the Notes may be exchanged for Domestic Notes in accordance with the procedures set forth in Section 10.

Section 6. Bidding and Sale Procedures

6.1. Bidders. Tender forms may be submitted only by or on behalf of Bidders. Individuals may not be Bidders. A syndicate must be comprised only of Bidders to be considered a Bidder. Tender forms may be submitted by an agent of a Bidder if the identity of the Bidder is disclosed.

6.2. Tender Submission. Bids must be submitted on the prescribed tender form and must be received at FRB NY, First Floor, before 1:00 p.m. New York time, Wednesday, May 29, 1985. Persons submitting tender forms will receive time-stamped receipts. Beginning at 1:00 p.m. New York time on May 29, 1985, bids are irrevocable. A sample tender form is set forth at Attachment A. Tender forms may be obtained at FRB NY and at Treasury offices in Washington, D.C.

6.3. Payment Instructions. Bidders are required to make arrangements to pay for the Notes before submitting a bid. Each Bidder must designate a Paying Institution on the tender form. Except as set forth below, each Paying Institution must advise FRB NY no later than 12:00 noon New York time on May 28, 1985, that it has agreed to serve as a Paying Institution for a named Bidder. That advice must be given in the form set forth at Attachment B to this offering circular. The Attachment B notice is not required if (i) the Bidder and its designated Paying Institution are the same legal entity or (ii) the Paying Institution is submitting the tender form as agent for a Bidder, and if the signature of the authorized signer of the Paying Institution on the tender form is on file with FRB NY as an authorized signature of the Paying Institution. The Paying Institution may withdraw or modify its agreement to serve as Paying Institution by notifying FRB NY in accordance with Attachment B. The withdrawal of a Paying Institution after a bid has been accepted does not relieve the Bidder of its obligation to pay for the Notes in funds available to Treasury at FRB NY no later than 9:00 a.m. New York time on June 4, 1985. FRB NY will retain paying instructions on file and, if not revoked by the Paying Institution, Bidders may use such instructions in subsequent auctions of Treasury foreign-targeted securities.

6.4. Payment Guarantees. A Payment Guarantee is required unless (i) the Bidder and its designated Paying Institution are the same legal entity or (ii) the Bidder is a foreign branch (not a subsidiary) of a Primary Dealer. A Payment Guarantee may be provided by a Paying Institution or by a Primary Dealer. If the Payment Guarantee is provided by a Paying Institution or a Primary Dealer that is signing the tender form, it must be provided on the tender form. If the Payment Guarantee is provided by a Paying Institution that is not signing the tender form, it must be provided in a letter in the form of Attachment C. If the Payment Guarantee is provided by a Primary Dealer that is not signing the tender form, it must be submitted in a letter in the form of Attachment C. Payment Guarantees in the form of Attachment C must be received by FRB NY no later than 12:00 noon New York time on May 28, 1985. In addition to any other remedies available to the Secretary, the amount of this Payment Guarantee is subject to forfeiture in the Secretary's sole discretion if full payment for the Notes is not made in funds available to Treasury at FRB NY no later than 9:00 a.m. New York time on June 4, 1985. FRB NY will retain Payment Guarantees on file and, if not revoked by the Paying Institution or Primary Dealer providing the Payment Guarantee, Bidders may use such Payment Guarantee in subsequent auctions of Treasury foreign-targeted securities.

6.5. Minimum Bid. The par amount of the bid must be stated on each tender form. Multiple bids by a single Bidder are permitted. Each bid, however, must be submitted on a separate tender form. All bids must be in multiples of $1,000,000, and the aggregate amount bid at the lowest yield by each Bidder must be at least $50,000,000. A bid must show the annual yield for which it is submitted to two decimals, e.g., 7.10%, based on an annual interest payment. Fractions may not be used.

6.6. Maximum Awards. A Bidder, whether bidding individually or as a member of one or more syndicates, will not be awarded Notes with a par value in excess of $350,000,000. A syndicate will not be awarded Notes in excess of $500,000,000. If a Bidder submits one or more bids with a total par value in excess of such maximum awards, the excess (starting at the highest yield bid) will be disregarded for purposes of the prorated calculations referred to in Section 6.8. A syndicate must disclose: (i) the identity of any syndicate member that is submitting one or more other bids (either individually or as a member of another syndicate) if that member's total bids exceed $350,000,000 and (ii) the amount of Notes included in the syndicate bid for such disclosed syndicate member. Apart from such disclosures, the identity of syndicate members other than the head of the syndicate need not be disclosed.

6.7. Interest Rate and Price of Notes. The stated interest rate established in the auction of the Domestic Notes also will be applied to the Notes. That rate of interest, payable on an annual basis, will be paid on all of the Notes. Based on such interest rate, the price for each accepted yield (on an annual payment basis) will be determined, and each successful Bidder will be required to pay the price equivalent to the yield bid. Price calculations will be based on a 360-day year using the formula set forth at Attachment D for Treasury notes paying annual interest. Price calculations will be carried to three decimal places on the basis of price per hundred, e.g., 99.923. The determinations of the Secretary shall be final.

6.8. Announcement of Auction Results. On May 29, 1985, a public announcement of the amount and yield range of accepted bids for the Notes will be made by 5:00 p.m. New York time or as soon thereafter as possible. Bids for the Notes at yields equal to or greater than the highest accepted yield in the auction of the Domestic Notes (adjusted to an annual payment basis) will not be accepted. Subject to the limitations and reservations set forth in this Section 6, bids will be acepted starting with those at the lowest yield through successively higher yields until the total par amount of Notes offered has been awarded. Bids at the highest accepted yield will be prorated on a percentage basis, if necessary, taking into account the maximum award limitations of Section 6.6. For example, assume that in a $1 billion offering, bids totaling $900 million have been accepted and that three Bidders have submitted bids totaling $250 million at the next yield above those already accepted. Each of the three Bidders would then receive 40% ($1,000,000,000 divided by $250,000,000) of the amount of its bid at that yield.

6.9. Notification of Bidders. FRB NY will mail to each successful Bidder notification that its bid has been accepted. This notification will contain the confirmation described in Section 11.3 Copies of the written notificaiton also will be available for pick-up by each successful Bidder and by its Paying Institution (and its Holding Institution, if

different) at FRB NY, First Floor, by 12:00 noon New York time on May 30, 1985.

6.10. Reservations. It is the intent of the Secretary to issue $1,000,000,000 of the Notes. The Secretary expressly reserves the right to accept or reject any or all of the bids in whole or in part. If acceptable bids of less than $500,000,000 are submitted, no bids will be accepted. The Secretary's action under this Section 6.10. is final.

Section 7. Payment for Notes

7.1. Payment. Payment for the Notes will be made on June 4, 1985, by FRB NY debiting the account of each successful Bidder's Paying Institution.

Section 8. Book-Entry Notes

8.1. Notes Held in Book-Entry Form. On this books of FRB NY, Notes may be held only by a Holding Institution. Before July 14, 1985, Notes may be held only in a Holding Institution's International Account. After July 13, 1985, Notes may be held in any book-entry account of a Holding Institution. Holding Notes in an account other than an International Account may affect the certifications required for tax purposes. See Section 11. A Holding Institution that has more than one available book-entry account with FRB NY may have more than one International Account. Each Bidder must identify on its tender form a Holding Institution with an International Account.

8.2. Transfer of Book-Entry Notes. Before July 14, 1985, FRB NY will transfer the Notes only between International Accounts. After July 13, 1985, the Notes may be transferred between any book-entry accounts of any Holding Institutions.

8.3. Book-Entry System. Book-entry records at FRB NY will reflect the aggregate holding of Notes of each Holding Institution by account. The Holding Institution, and each subsequent holder in the chain to the beneficial owner, will have the responsibility of establishing and maintaining accounts for its customers. FRB NY will be responsible only for maintaining the book-entry accounts in its system, effecting transfers on its books, and ensuring that payments are made to the Holding Institution identified in its book-entry system. With respect to the Notes, FRB NY will act only upon instructions of the Holding Institution holding the Notes.

8.4. FRB NY as Fiscal Agent. FRB NY acts as fiscal agent of Treasury. All other holders in the chain between FRB NY and the beneficial owner act as agents of the beneficial owner or as agents of intermediary Financial Institutions and not as agents of Treasury.

8.5. Payment of Interest and Principal. Interest on Notes in book-entry form will be paid on the interest payment date, and Notes will be redeemed at par on the maturity date. Funds for interest or redemption payments will be credited to the Holding Institution. In the case of a Holding Institution that is an International Financial Organization, interest and redemption payments will be made at a foreign office of such International Financial Organization. In the event an interest payment date or the maturity date is a Saturday, Sunday, or other day on which Treasury in Washington, D.C., or FRB NY is not open for business, the interest or principal is payable (without additional interest) on the next day that both Treasury in Washington, D.C., and FRB NY are open for business.

Section 9. Definitive Notes

9.1. Definitive Notes. After July 13, 1985, book-entry Notes held at FRB NY may be converted to Definitive Notes. Each Definitive Note will contain on its face the following legend:

> This obligation has been sold at original issuance in accordance with procedures reasonably designed to ensure that it will be sold only to a person that is not a United States person, other than a foreign branch of a United States financial institution, pursuant to sections 871(h) and 881(c) of the Internal Revenue Code of 1954, as amended.

9.2. Requests for Conversion to Definitive Notes. The request for conversion of book-entry Notes to Definitive Notes may be made to FRB NY only by a Holding Institution and must provide the name and address of the Registered Owner. The Registered Owner of a Difinitive Note may be the beneficial owner or an entity (other than an International Financial Organization) holding the Note on behalf of a beneficial owner. FRB NY will deliver the Definitive Note either over the counter or via registered mail in accordance with the instructions provided by the Holding Institution submitting the request for a Definitive Note.

9.3. Payment of Interest and Principal. Interest and maturity payments will be made by check payable to the Registered Owner or by credit to the reserve, clearing, or other dollar account of a Financial Institution that is the Registered Owner, if that Financial Institution maintains such an account with FRB NY. Interest and maturity payments will be mailed or credited on the date such payments are due. In the event an interest payment date or the maturity date is a Saturday, Sunday, or other day on which Treasury in Washington, D.C., or FRB NY is not open for business, the interest or principal is payable (without additional interest) on the next day that both Treasury in Washington, D.C., and FRB NY are open for business. Definitive Notes will be redeemed by FRB NY at par upon presentment by the Registered Owner or by a Holding Institution on behalf of the Registered Owner on or after the maturity date. Notes will not accrue interest after the maturity date.

9.4. Conversion to Book-Entry Form. A registered Owner may convert a Definitive Note to book-entry form by submitting the Definitive Note to FRB NY through a Holding Institution. The signature of the Registered Owner must be guaranteed by the Holding Institution or certified by: (1) A United States diplomatic or consular representative; (2) a manager, assistant manager, or other officer of a foreign branch of a bank or trust company incorporated in the United States, its territories or possessions, or the Commonwealth of Puerto Rico; or (3) a notary public or other officer authorized to administer oaths, provided that the official position and authority of any such officer is certified by a United States diplomatic or consular representative under seal of office. An International Financial Organization may convert a Definitive Note to book-entry form by submitting the Definitive Note, duly executed by an authorized official of such International Financial Organization, to FRB NY.

9.5. Transfer of Ownership. Ownership of Definitive Notes may be transferred by assignment. In order to reflect the change of ownership on the books of FRB NY, assigned Definitive Notes must be submitted for reregistration to FRB NY, together with the name and address of the new Registered Owner. The signatures of all assignors must be guaranteed by an institution that at the time of transfer is eligible to serve as a Paying Institution or certified by an individual who may certify signatures for purposes of Section 9.4. above.

9.6. Closed-Book Periods. Transactions involving Definitive Notes will not be accepted at FRB NY during closed-book periods. Such transactions include conversions between book-entry and Definitive Notes and changes in the registration of Definitive Notes. Books for Definitive Notes will be closed for one calendar month prior to and ending on an interest payment date the maturity date. The Definitive Note books will be reopened on the next day that FRB NY is open for business following an interest payment date. No

conversions or changes in registration will be allowed after the maturity date. During periods when the books for Definitive Notes are open, conversions and changes in registration of Definitive Notes generally will be processed by FRB NY within one week of receipt.

9.7. No Fees Imposed. FRB NY will not impose any fee for the issuance, transfer, exchange, or redemption of Definitive Notes.

Section 10. Exchange for Domestic Notes

10.1. Exchange Provision. After July 13, 1985, Notes issued under this offering circular may be exchanged for Domestic Notes. Definitive Notes or Notes in book-entry form may be exchanged at FRB NY for Domestic Notes in an equal par amount in either book-entry or definitive form. Exchanges of Domestic Notes for Notes will not be permitted.

10.2. Taxation. Upon exchange for Domestic Notes, the holder of such Domestic Notes will be required to comply with the tax requirements (including certification requirements) applicable to Domestic Notes. See also Section 11.

10.3. Adjustment Upon Exchange. At the time of the exchange of Notes for Domestic Notes, an adjustment will be made for the difference between the present value of the Notes based on the formula in Attanchment D for Treasury notes paying annual interest and the present value of the Notes based on the formula in Attachment D for Treasury notes paying semiannual interest. This net adjustment consists of the Exchange Adjustment and accrued interest, if applicable. As used in this offering circular, "Exchange Adjustment" means the difference in the present values of the Notes resulting from applying the formulas in Attachment D, after adjusting for the difference in accured interest. In determining present values, the future payments of interest and principal will be discounted by using the weighted average yield of the Notes at the time of auction in applying the annual formula and by using the semiannual formula. Calculation of the present values will be made using the formulas shown in Attachment D hereto. In the event the present value of the Notes based on semiannual interest payments exceeds the present value of the Notes based on annual interest payments, the holder must pay to Treasury an amount equal to the excess before the exchange will be processed. In the event the present value of the Notes based on the annual interest payments exceeds the present value of the Notes based on the semiannual interest payments, the holder will receive on the exchange an amount equal to the excess. The net adjustment will not reflect or take into account any market-based factor.

10.4. Closed-Book Periods. Exchange transactions involving Notes or Domestic Notes in definitive form will not be accepted during closed-book periods that will be in effect during the period of one calendar month prior to and ending on an interest payment date and the maturity date. Exchange transactions involving only Notes and Domestic Notes in book-entry form may not be accepted on the last day on which FRB NY is open for business preceding an interest payment date and the maturity date. The registration books for Notes and Domestic Notes in definitive form will be reopened on the first day following an interest payment date on which FRB NY is open for business. Except for the closed-book periods, exchange transactions involving only book-entry securities normally will be processed within one day; all other exchange transactions normally will be processed within one week of receipt by FRB NY. No exchanges will be allowed after the maturity date of the Notes.

Section 11. United States Taxation

11.1. Taxation of Interest and Principal to United States Aliens. Payments of interest and principal on the Notes to a United States Alien will not be subject to withholding of United States federal income tax if the Withholding Agency receives an effective certificate under Sections 11.4., 11.5., 11.6., or 11.7. and the other requirements described in the applicable section are satisfied. Failure to satisfy the requirements described in this Section 11.1. may result in imposition of a withholding tax.

11.2. Certification at Initial Issuance. A Bidder will be required to provide a written certification on the tender form that, as of the date of issuance, none of the Notes acquired by the Bidder will be beneficially owned by a United States Person, other than a foreign branch of a United States Financial Institution, or is being acquired on behalf of such a person, or for offer to resell or for resale to such a person. This certification is in addition to and not limited by the transfer restriction in Section 1.3. A certification made by a clearing organization must be based on such statements provided to the clearing organization by its member organizations. (Alternatively, a member organization of a clearing organization may provide the written certification directly to FRB NY.)

11.3. Confirmations. FRB NY will include a confirmation in the notification described in Section 6.9. that it is understood that the purchaser represents that it is not a United States Person or that if it is a United States Person it is a foreign branch of a United States Financial Institution. If the sale is to a dealer, the confirmation will state that the dealer is required to send a similar confirmation to its purchaser. Financial Institutions buying on behalf of or for resale to others are considered to be dealers and will be required to send confirmations to their customers.

11.4. Interest Certification: Financial Institutions. A Withholding Agent may make a payment of interest on a Note at an address outside the United States to a Registered Owner that is a Financial Institution without withholding United States federal income tax if (i) the Withholding Agent does not have actual knowledge that the beneficial owner of the Note is a United States Person (other than a foreign branch of a United States Financial Institution), (ii) the Note was sold in accordance with the procedures described in Sections 11.2 and 11.3., and (iii) the Financial Institution provides a certificate to the Withholding Agent in writing that states that the beneficial owner of the Note is not a United States Person (other than a foreign branch of a United States Financial Institution). No particular form is required for the certificate. If the Financial Institution does not hold Notes for a beneficial owner that is a United States Person (other than a foreign branch of a United States Financial Institution), a single certificate may be provided with respect to all of the Notes held by the Financial Institution. If a Financial Institution that is a Registered Owner transfers a Note and ceases to be the Registered Owner of such Note, then, except as described in Section 11.10, the Financial Institution will not be required to provide a certificate under this Section 11.4. with respect to such Notes (unless the Financial Institution subsequently becomes the Registered Owner of the Note). Interest will be considered paid to a Registered Owner outside the United States if the Note is either recorded in a Holding Institution's International Account and interest is credited for the account or interest on a Definitive Note is delivered to the holder outside the United States.

11.5 Interest Certification: Clearing Organizations. A certificate described in Section 11.4. may be provided by a Financial Institution acting in its capacity as a clearing organization only if the clearing organization has received such a certificate from the member organization to which the interest is paid.

11.6. Interest Certification for Beneficial Owners that are United States Persons. A Withholding Agent may make a payment of interest on a Note to a Registered Owner that is a Financial Institution at an address outside the United States without withholding United States federal income tax if the Withholding Agent receives an effective statement, as described below, from the Financial Institution (relating to beneficial ownership by certain United States Persons), and, if the Financial Institution is not a United States-Related Person, the Withholding Agent makes the information returns described in Section 11.9. If the Financial Institution is a United States-Related Person, the statement must be signed under the penalties of perjury by an authorized representative of the Financial Institution and must state that the institution has received from the beneficial owner a certificate, as described below, and that the institution will made such information returns and otherwise comply with information reporting required under the Internal Revenue Code. If the Financial Institution is not a United States-Related Person, the statement must be signed under penalties of perjury by an authorized representative of the Financial Institution and must state (i) that the institution has received from the beneficial owner a certificate, as described below, or (ii) that it has received from another Financial Institution a similar statement that it, or another Financial Institution acting on behalf of the beneficial owner, has received a certificate, as described below, from the beneficial owner. In the case of multiple Financial Institutions between the beneficial owner and the person otherwise required to withhold, this statement must be given by each Financial Institution to the one above it in the chain. The certificate from the beneficial owner must (i) be signed by the beneficial owner under penalties of perjury, (ii) provide the name and address of the beneficial owner, (iii) provide the United States taxpayer identification number and state that it is the beneficial owner's correct number, and (iv) state that the beneficial owner is not subject to backup withholding due to notified payee underreporting. This certificate may be provided on Internal Revenue Service Form W-9 or a substitute form that is substantially similar to a Form W-9. No particular form is required for the statement provided by the Financial Institutions. However, the statement must provide the name and address of the beneficial owner, and a copy of the Form W-9 or substitute form must be attached.

11.7. Interest Certification in Other Cases. A Withholding Agent may make a payment of interest on a Note to a Registered Owner without withholding United States federal income tax if (i) the Withholding Agent does not have actual knowledge that the beneficial owner of the Note is a United States Person (other than a foreign branch of a United States Financial Institution), and if (ii) the Withholding Agent receives a certificate from the Registered Owner that (A) is signed by the beneficial owner under penalties of perjury, (B) certifies that such owner is not a United States Person, or in the case of an individual, that he is neither a citizen nor a resident of the United States, and (C) provides the name and address of the beneficial owner. The statement may be made, at the option of the Withholding Agent, on Internal Revenue Service Form W-8 or on a substitute form that is substantially similar to a Form W-8. A Withholding Agent also may make a payment of interest to a United States Alien Registered Owner without withholding United States federal income tax if an appropriate statement is provided to the Withholding Agent by a Financial Institution. In such case the statement must describe the obligation, be signed under penalties of perjury by an authorized representative of the Financial Institution, and state (i) that the Financial Institution has received from the beneficial owner a Form W-8 or substitute form, or (ii) that it has received from another Financial Institution a similar statement that it, or another Financial Institution acting on behalf of the beneficial owner, has received the Form W-8 or substitute form from the beneficial owner. In the case of multiple Financial Institutions between the beneficial owner and the Withholding Agent, this certificate must be given by each Financial Institution to the one above it in the chain. No particular form is required for the statement provided by the Financial Institutions. However, the statement must provide the name and address of the beneficial owner, and a copy of the Form W-8 or a substitute form provided by the beneficial owner must be attached. The certification procedures of this Section 11.7. may be used in lieu of the procedures in Section 11.4. with respect to a payment of interest outside the United States on a Note registered in the name of a Financial Institution.

11.8. Prospective Determination. Any determination by the Secretary with respect to certification requirements pursuant to section 871(h)(4) of the Internal Revenue Code will be published and will be effective only with respect to payment of interest made more than one month after the publication of such a determination.

11.9. Certain Information Reporting. A Withholding Agent that receives a statement described in Section 11.6. from a Financial Institution that is not a United States-Related Person must make an information return on Internal Revenue Service Form 1099 of the payment with respect to which the statement (and accompanying certificate) is required for the calendar year in which the payment is made. The return should be completed as though the payment were made to the beneficial owner of the income. A Withholding Agent that receives a certificate described in Section 11.7. must make an information return on Internal Revenue Service Form 1042S of the payment with respect to which the certificate is required for the calendar year in which the payment is made. The certificate received with respect to the payment shall be attached to the Form 1042S required to be filed with respect to the payment.

11.10. Timing of Certificates at Interest Payments. The certificates or statements described in Sections 11.4. through 11.7. are required to be received by the Withholding Agent within the 90-day period prior to the interest payment date. However, if a certificate is received less than 30 days before that date, the Withholding Agent, in its discretion, may withhold tax. If the information provided on a certificate described in Section 11.4. or 11.5. changes within the 90-day period prior to the interest payment date, the person providing the statement must inform the Withholding Agent (or clearing organization) within 30 days of such change. For example, if during the 90-day period, but subsequent to furnishing a certificate, beneficial ownership of a Note is transferred to a United States Person, the person furnishing the certificate described in Section 11.4 or 11.5. is required to amend its certificate within 30 days of the transfer to inform the Withholding Agent that the obligation is being held by a United States Person. Except as provided in this Section 11.10., a certificate described in Section 11.4. or 11.5. does not have to be amended if Notes are transferred from one Financial Institution to another Financial Institution. If the information on a certificate described in Section 11.6. or 11.7. changes, the beneficial owner must notify the Withholding Agent, or a Financial Institution acting

on behalf of the beneficial owner, within 30 days. The Financial Institution must promptly inform the Withholding Agent (or a Financial Institution holding an interest in the Note on its behalf) of such notice if the Financial Institution has been informed by the beneficial owner or if it has actual knowledge of such changes.

11.11. Retention of Certificates. The Withholding Agent is required to retain the written certifications for a period of four years after the close of the calendar year in which they were, respectively, obtained.

11.12. Information Reporting and Backup Withholding. Neither information reporting under section 6049 of the Internal Revenue Code nor backup withholding will apply to interest paid on a Note to a United States Alien if (i) the conditions of Section 11.1. are satisfied, (ii) the payor of the interest does not have actual knowledge that the payee is a United States Person, and (iii) if the payor is a United States-Related Person acting as a custodian, nominee, or other agent of the payee, the payor has documentary evidence in its records that the payee is not a United States citizen or resident. Neither information reporting under section 6045 of the Internal Revenue Code nor backup withholding will apply to payments of principal made outside the United States on a Note to a United States Alien (i) if the payor of the principal is not a United States-Related Person; or (ii) if the payor is a United States-Related Person acting as a custodian, nominee, or other agent of the payee, the payor does not have actual knowledge that the payee is a United States Person (other than a foreign branch of a United States Financial Institution) and has documentary evidence in its records that the payee is not such a person. Principal will be considered paid to a Registered Owner outside the United States if either the Note is recorded in a Holding Institution's International Account and principal is credited for that account, or principal on a definitive Note is delivered to the holder outside the United States.

11.13. Original Issue Discount. The Secretary shall determine whether the Notes will be considered issued with original issue discount within the meaning of section 1273(a)(1) of the Internal Revenue Code. In the event the Notes are issued with original issue discount, that fact and the amount of the discount will be announced in an Internal Revenue Service publication. See also Section 11.15. A United States Alien described in Section 11.2. that is a holder of a Note will not be subject to United States federal income tax, and no withholding of United States federal income tax will be required as a consequence of the Note's having original issue discount if the conditions of Section 11.1. are satisfied with resepct to stated interest on the Note. A holder of a Note that is a United States Person generally will be required to include in income the portion of the original issue discount allocable to each day during the year on which the Note is held. Any such income will increase such holder's tax basis for the Note, and any gain or loss on a sale of the Note, determined by comparing the amount realized in such sale with the holder's basis, as so adjusted, generally will be capital gain or loss.

11.14. Taxation of Gains to United States Aliens. A holder of a Note that is a United States Alien will not be subject to the United States federal income tax and no withholding of United States federal income tax will be required with respect to any gain realized on the sale, redemption, or exchange of the Note provided such gain is not effectively connected with a United States trade or business, and further provided that: (i) if such United States Alien is a nonresident alien individual, such individual is not present in the United States for a total of 183 days or more during the taxable year in which such gain is realized, is not subject to tax under section 877 of the Internal Revenue Code as an expatriate of the United States, and is not treated as a resident of the United States for the taxable year in which the gain is recognized under sections 6013(g) or 6013(h) of the Internal Revenue Code; or (ii) if such United States Alien holder is a foreign corporation, such foreign corporation will not have a past or present status as a personal holding company with respect to the United States or as a corporation which accumulates earnings to avoid United States federal income tax.

11.15. Exchange for Domestic Notes. A holder of a Note will not recognize gain or loss on the exchange of a Note for a Domestic Note under the procedures in Section 10. Upon the exchange, a holder will be considered to have received interest accrued on the Note up to the time of the exchange and to have paid to Treasury the Exchange Adjustment amount. (Actual payments will be only of the net amount. See Section 10.3.) The amount of the Exchange Adjustment will be considered an increase in the original issue price (which will reduce original issue discount, if any, with respect to the Note).

11.16. Federal Estate Taxation of United States Aliens. Any Note held by an individual who at the time of his death is not a citizen of or domiciled in the United States will not be included in the decedent's gross estate for purposes of United States federal estate tax at the time of such individual's death if interest paid on the Note to the individual at the time of his death would not have been subject to withholding of United States federal income tax because the conditions described in Section 11.1. are satisfied but without regard to whether a certificate or statement described in Section 11 has been received by the Withholding Agent since the last interest payment.

11.17. State and Local Taxation. The Notes are exempt from all taxation now or hereafter imposed on the obligation or interest thereof by any State, any possession of the United States, or any local taxing authority, except for: (i) A non-discriminatory franchise or other nonproperty tax instead of a franchise tax imposed on a corporation, or (ii) an estate or inheritance tax. See section 3124 of Title 31 of the United States Code.

Section 12. Sanctions

12.1. Sanctions. In the Secretary's sole discretion, any person found to be in violation of any requirement or provision set forth in this offering circular may be excluded from bidding for or purchasing some or all future issues of Treasury foreign-targeted securities and may be subject to such other sanctions as determned by the Secretary.

Section 13. General Provisions

13.1. Applicable Law. The law governing all matters relating to the terms and conditions of the Notes is the federal law of the United States.

13.2. Modifications. The Secretary may supplement or amend provisions of this offering circular governing the offering if such supplements or amendments do not adversely affect existing rights of holders of the Notes. Public announcement of such future changes will be promptly provided.

13.3. Monthly Information. The Secretary will publish the total amount of Notes outstanding in the Monthly Statement of the Public Debt.

13.4. Listing. The Notes will be listed on the New York Stock Exchange as of June 4, 1985.

13.5. Eligibility for Clearance. The Notes will be eligible for clearance on Euro-Clear and CEDEL.

13.6. Headings. The headings of sections and subsections in this offering

circular are inserted for convenience of reference only and shall not be deemed to be part of this offering circular.

13.7. Attachments Incorporated. Attachments A through D and any terms and conditions set forth therein are incorporated as part of this offering circular.

13.8. Waiver. The Secretary reserves the right, in his discretion, to waive any provision or provisions of this offering circular.

13.9. Sale in the United States. The Notes are offered for sale only in the United States. Resale or reoffering of the Notes outside the United States is authorized only when such resale or reoffering complies with the securities laws and other applicable laws of jurisdictions in which such resale or reoffering occurs. Bidders and their agents are responsible for ensuring compliance with the laws of such jurisdictions.

Gerald Murphy,

Acting Fiscal Assistant Secretary.

BILLING CODE 4810-40-M

TENDER FOR SAMPLE FOREIGN-TARGETED TREASURY NOTES OF _____ SERIES _____

IMPORTANT — ONLY COMPETITIVE TENDERS WILL BE ACCEPTED AND MUST BE RECEIVED BY THE FEDERAL RESERVE BANK OF NEW YORK BEFORE 1:00 P.M. NEW YORK TIME ON _____

To: Federal Reserve Bank of New York
Fiscal Agent of the United States
33 Liberty Street
New York, New York 10045

The undersigned offers to purchase the above-described Notes in the amount indicated below and agrees to make payment therefor at FRB NY in accordance with the provisions of the official offering circular (Department Circular, Public Debt Series No. ____). The definitions in the official offering circular apply to this tender form.

The total par amount bid at the lowest yield must be at least $50,000,000. Par amount bid for must be a multiple of $1,000,000. Bidders may submit multiple bids but each bid must be submitted on a separate tender form.

COMPETITIVE TENDER

PAR AMOUNT	ANNUAL YIELD
$.....(United States dollars) (maturity value)	..... *(Yield must be expressed to two decimal places, for example, 7.10%)*

☐ Check here if this is a syndicate bid.

DELIVERY AND PAYMENT INSTRUCTIONS

Issue book-entry Notes to be held at FRB NY in an International Account of .....

.....
(Name and Address of Holding Institution)

Payment for Notes awarded will be made through.....
(Name and Address of Paying Institution)

☐ By charge to reserve account; ☐ By charge to clearing account; ☐ By charge to other dollar account

Authorization for such charge must be on file with FRB NY in accordance with the provisions of the official offering circular. If otherwise eligible, the Holding Institution and the Paying Institution may be, but do not have to be, the same.

Bid may be submitted only by or on behalf of Bidders as defined in the official offering circular. If the tender form is submitted by a United States Person, other than a foreign branch of a United States Financial Institution, it must be acting solely as agent for a disclosed Bidder.

TENDER FORM IS SUBMITTED BY: (Please print or type)

NAME.....

ADDRESS.....

CITY.....STATE.....ZIPCODE.....

COUNTRY.....

AREA CODE.....TELEPHONE NUMBER.....

If acting as agent, Bidder must be identified below. If Bidder is a syndicate, the head of the syndicate must be identified below.

NAME.....

ADDRESS.....

.....

BIDS WILL BE CONSIDERED ONLY IF THE REVERSE SIDE IS COMPLETED AND EXECUTED

CERTIFICATIONS AND GUARANTEE

1. WE HEREBY CERTIFY that (i) as of _____ none of the Notes awarded to us will be beneficially owned by a United States Person, other than a foreign branch of a United States Financial Institution, and (ii) none of the Notes awarded to us is being acquired on behalf of a United States Person, other than a foreign branch of a United States Financial Institution, or for offer to resell or for resale to such a person.

2. WE FURTHER CERTIFY that we will not sell, contract to sell, or otherwise transfer Notes issued to us to a United States Person, other than a foreign branch of a United States Financial Institution, until after _____. We further agree that if we sell, contract to sell, or otherwise transfer a Note before _____ we will confirm to such purchaser or transferee in writing that (i) there is a restriction on sale or other transfer to United States Persons other than foreign branches of United States Financial Institutions and (ii) that such confirmation is required to be given to any subsequent purchaser or transferee that acquires the Note before _____. We understand that this certification is independent of, and that any transfer must be consistent with, the certification of the preceding paragraph.

3. If this is a syndicate bid, WE FURTHER CERTIFY that, except as identified below, no syndicate member is bidding for Notes in excess of $_____ either through this syndicate, individually, or through another syndicate. (Supply below the identity of any syndicate bidders whose total bids are in excess of $_____ and the amount of Notes included in this syndicate bid for each such member.)

_____

_____

☐ Check here if entity submitting the bid is eligible to and does hereby guarantee payment to Treasury, in accordance with the terms of the official offering circular, of an amount equal to 5% of the Notes for which the tender is submitted. If this box is not checked, a payment guarantee in the form specified in the official offering circular must have been submitted previously to FRB NY unless the Bidder is exempt from such guarantee requirement.

If this tender form is submitted by an agent for a Bidder, the above certifications are made by the agent on behalf of, and are binding on, that principal.

TENDER IS SUBMITTED BY: _____

AUTHORIZED SIGNATURE: _____

NAME AND TITLE OF AUTHORIZED SIGNER: _____

DATE: _____

INSERT THIS TENDER FORM IN ENVELOPE MARKED "TENDER FOR FOREIGN-TARGETED TREASURY NOTES"

[Letterhead of Paying Institution]

Federal Reserve Bank of New York
33 Liberty Street, Room 835
New York, New York 10045
Attn: Mr. Stuart Zorfas
Chief, Securities Department

Gentlemen:

1. We hereby authorize you to debit our (reserve, clearing, or other dollar) account in an amount not to exceed $_____ as payment for United States Treasury securities targeted to foreign investors ("Securities") awarded to (name Bidder). Terms used herein shall have the same meaning as set forth in the official offering circular applicable to the Securities.

2. We retain the right to modify or withdraw this authority. We understand that any such modification or withdrawal must be in writing and must be delivered to FRB NY. We understand that, unless restricted to a specific auction, this letter will be retained by FRB NY and, until modified or withdrawn, may be used by (name Bidder) to pay for any Securities purchased by (name Bidder).

3. We further understand that any Securities paid for by a debit to our (reserve, clearing, or other dollar) account will be issued to our International Account. (This sentence is not required if the Paying Institution signing this letter is willing to permit the Securities paid for under this authorization to be issued to another Holding Institution's International Account.)

4. The following signature(s) is (are) a specimen of the authorized signature(s) which will appear on the tender form submitted by (name Bidder):

_____
(Authorized Signature of Bidder or Bidder's Agent)

_____
(Name of Authorized Signer)

_____
(Title of Authorized Signer)

ATTACH SEPARATE SHEET FOR ADDITIONAL SIGNATURES

_____
(Name of Paying Institution)

By: _____
(Authorized Signature)

_____
(Name of Authorized Signer)

_____
(Title of Authorized Signer)

_____
(Date)

Receipt Acknowledged:

_____
FRB NY

TERMS AND FORM OF THIS LETTER MAY NOT BE ALTERED EXCEPT AS INDICATED IN PARAGRAPH 3

Attachment C

[Letterhead of Guarantor]

Federal Reserve Bank of New York
33 Liberty Street
New York, New York 10045
Attn: Mr. Stuart Zorfas
Chief, Securities Department

Gentlemen:

This is to advise you that we guarantee payment to Treasury of an amount equal to 5% of the par amount, but not in excess of $_____ of any United States Treasury securities targeted to foreign investors ("Securities") for which _____ bids.
(name of Bidder)

We acknowledge that this guarantee may not be withdrawn during any period between the deadline for submission of bids for Securities and payment for those Securities.

_____
(Name of Guarantor)

By: _____
(Authorized Signature)

_____
(Name and Title of Authorized Signer)

_____
(Date)

Receipt Acknowledged:

_____
FRB NY

TERMS AND FORM OF THIS LETTER MAY NOT BE ALTERED

Attachment D

Formulas for Calculating the Present Value (Price Plus Accrued Interest) And Yield to Maturity of Treasury Notes Paying Annual Interest 1/

Case A: Calculations during an initial "short" interest period for Treasury notes with long coupons

$$(P+A) = \frac{(r"/360)(C)(v) + (C)a_{\overline{n}|} + 100v^{n}}{(1+i)^{f}}$$

and $A = [(r"-r)/360](C)$

Case B: Calculations during the first "regular" interest period for Treasury notes with long coupons (for use beginning with the first coupon frequency date 2/)

$$(P+A) = \frac{(r"/360)(C) + C + (C)a_{\overline{n}|} + 100v^{n}}{(1+i)^{f}}$$

and $A = [(r"/360) + (360-r)/360](C)$

Case C: Calculations during an initial "short" period for Treasury notes with short first coupons

$$(P+A) = \frac{(r"/360)(C) + (C)a_{\overline{n}|} + 100v^{n}}{(1+i)^{f}}$$

and $A = [(r"-r)/360](C)$

Case D: Calculations when the coupon paid on the next coupon frequency date is a regular coupon

$$(P+A) = \frac{C + (C)a_{\overline{n}|} + 100v^{n}}{(1+i)^{f}}$$

and $A = [(360-r)/360](C)$

where:

P = Price in decimals.
A = Accrued interest from original issue date or last interest payment date to valuation date.
r = Days from valuation date to next coupon frequency date calculated on a 360 days per year basis from and including the day following the valuation date up to and including the next coupon frequency date. A full month will be counted as thirty days and a date occurring on the thirty-first calendar day of a month shall be the same as the first calendar day of the following month. If the valuation date falls on a coupon frequency date then r will be defined to be equal to 360.
f = r/360
r" = Days from the original issue date of the security to the first coupon frequency date of the security calculated using the same conventions used in calculating r.
i = Interest rate (yield to maturity), expressed in decimals and based on annual interest payments.
C = Regular annual coupon, payable annually.
n = Number of full annual periods from valuation date to maturity except that if the valuation date occurs on a coupon frequency date n will be one less than the number of full annual periods remaining to maturity.
$v = 1/(1+i)$
$v^n = 1/(1+i)^n$
$a_{\overline{n}|} = (1-v^n)/i = v + v^2 + v^3 + \ldots\ldots\ldots\ldots + v^n$ = present value of 1 per period for n periods.

1/ These formulas are specifically intended only for use with the foreign-targeted notes described in this offering circular.

2/ A coupon frequency date is a coupon payment date except for a note with an initial long coupon in which case there is no payment on the first coupon frequency date.

Note: The day count conventions used for determining short and long coupon and accrued interest and for discounting over partial periods for targeted Notes do not conform to regular Treasury practice for domestic securities. The conventions for the targeted Notes assume that each month has thirty days and that a date occurring on the thirty-first calendar day of a month is the same as the first calendar day of the following month. Unlike the convention for corporate bonds in the United States, the last day of February is not defined to be the thirtieth day of the month. Thus, application of these rules results in three days between February 28th and March 1st and zero days between March 31st and the first of April. Similarly, a strict application of these rules leads to 181 days between September 30th and March 31st.

Formulas for Calculating the Present Value (Price Plus Accrued Interest) And Yield to Maturity of Treasury Notes Paying Semiannual Interest 1/

Case A: Calculations during an initial "short" interest period for Treasury notes with long coupons

$$(P+A) = \frac{(r"/s)(C/2)(v) + (C/2)a_{\overline{n}|} + 100v^n}{(1+i/2)^f}$$

and $A = [(r"-r)/s](C/2)$

Case B: Calculations during the first "regular" interest period for Treasury notes with long coupons (for use beginning with the first coupon frequency date 2/)

$$(P+A) = \frac{(r"/s")(C/2) + (C/2) + (C/2)a_{\overline{n}|} + 100v^n}{(1+i/2)^f}$$

and $A = [(r"/s") + (s-r)/s](C/2)$

Case C: Calculations during an initial "short" period for Treasury notes with short first coupons

$$(P+A) = \frac{(r"/s)(C/2) + (C/2)a_{\overline{n}|} + 100v^n}{(1+i/2)^f}$$

and $A = [(r"-r)/s](C/2)$

Case D: Calculations when the coupon paid on the next coupon frequency date is a regular coupon

$$(P+A) = \frac{C/2 + (C/2)a_{\overline{n}|} + 100v^n}{(1+i/2)^f}$$

and $A = [(s-r)/s](C/2)$

where:

P = Price in decimals.
A = Accrued interest from original issue date or last interest payment date to valuation date.
r = Exact number of days from valuation date to next coupon frequency date.
r" = Exact number of days from the original issue date to the first coupon frequency date.
f = r'/180 where r' is the number of days from the valuation date to the next coupon frequency date calculated on a 360 days per year basis from and including the day following the valuation date up to and including the next coupon frequency date. A full month will be counted as thirty days and a date occurring on the thirty-first calendar day of a month shall be the same as the first calendar day of the following month. If the valuation date falls on a coupon frequency date then f will be defined to be equal to one.
s = Exact number of days in the current semiannual period. On a coupon frequency date s is the exact number of days to the next coupon frequency date.
s" = Exact number of days in the semiannual period containing the issue date.
i = Interest rate (yield to maturity), expressed in decimals and based on semiannual interest payments.
C = Regular annual coupon, payable semiannually.
n = Number of full semiannual periods from valuation date to maturity except that if the valuation date occurs on a coupon frequency date n will be one less than the number of full semiannual periods remaining to maturity.

$v = 1/(1+i/2)$

$v^n = 1/(1+i/2)^n$

$a_{\overline{n}|} = (1-v^n)/(i/2) = v + v^2 + v^3 + \ldots\ldots\ldots\ldots + v^n$ = present value of 1 per period for n periods.

1/ These formulas will only be used for making calculations involved in exchanging targeted registered issues for companion regular Treasury issues.

2/ A coupon frequency date is a coupon payment date except for a note with an initial long coupon in which case there is no payment on the first coupon frequency date.

Note: The day count conventions used for pricing domestic Treasury notes in making exchange calculations do not conform to regular Treasury practice for domestic securities. The conventions assume that each month has thirty days and that a date occurring on the thirty-first calendar day of a month is the same as the first calendar day of the following month. Unlike the convention for corporate bonds in the United States, the last day of February is not defined to be the thirtieth day of the month. Thus, application of these rules results in three days between February 28th and March 1st and zero days between March 31st and the first of April. Similarly, a strict application of these rules leads to 181 days between September 30th and March 31st (but note the definition of f above).

SAMPLE EXCHANGE VALUES FOR A HYPOTHETICAL 5-YEAR NOTE ISSUED 6/ 4/1985 AND MATURING 6/15/1990

DATES OF EXCHANGE	10.500% ANNUAL COUPON @ 10.485 ANN	10.500% SEMIANNUAL COUPON @ 10.22% S/A	ACCRUED INTEREST	EXCHANGE ADJUSTMENT	NET ADJUSTMENT (TO TREASURY) TO INVESTOR
7/15/85	P= 99.910240 A= 1.195833 P+A=101.106073	P=101.020423 A= 1.189227 P+A=102.209650	.006606	(1.110183)	(1.103577)
7/31/85	P= 99.892418 A= 1.862500 P+A=101.554918	P=101.010126 A= 1.853315 P+A=102.863441	.009185	(1.117758)	(1.108523)
8/15/85	P= 99.878459 A= 2.070833 P+A=101.949292	P=100.973762 A= 2.088398 P+A=103.062160	(.017565)	(1.099308)	(1.116873)
12/31/85	P= 99.823458 A= 5.037500 P+A=105.860958	P=100.991098 A= 5.025898 P+A=107.016936	.011602	(1.167580)	(1.155978)
2/15/86	P= 99.837524 A= 7.320833 P+A=107.158357	P=100.990239 A= .000000 P+A=100.990239	7.320833	(1.152715)	6.168118
10/15/87	P= 99.875080 A= 1.750000 P+A=101.725080	P=100.664593 A= 1.740488 P+A=102.395082	.009511	(.879503)	(.669992)
8/31/88	P=100.011910 A= .466667 P+A=100.478577	P=100.484824 A= .456522 P+A=100.941346	.010145	(.472016)	(.462769)

FIGURES HEREIN ILLUSTRATE EXCHANGE VALUE COMPUTATIONS AND ARE NOT INTENDED TO APPLY TO THE NOTES OFFERED IN THIS CIRCULAR.

[FR Doc. 85-13013 Filed 5-28-85; 11:19 am]

BILLING CODE 4810-40-C

UNITED STATES INFORMATION AGENCY

Culturally Significant Objects Imported for Exhibition; Determination

Notice is hereby given of the following determination: Pursuant to the authority vested in me by the act of October 19, 1965 (79 Stat. 985, 22 U.S.C. 2459), Executive Order 12047 of March 27, 1978 (43 FR 13359, March 29, 1978), and Delegation of Authority of December 17, 1982 (47 FR 57600, December 27, 1982), I hereby determine that two violins to be imported from abroad by the Boston Early Music Festival & Exhibition and made by Johann Christian Hoffman (Leipzig, 1729) for Johann Sebastian Bach are of cultural significance. I aslo determine that the temporary exhibition or display of the violins during the nonprofit concert performance on June 5, 1985, at Jordan Hall, New England Conservatory, Boston, Massachusetts, and at a press conference at the Boston Park Plaza Hotel on June 4, 1985, is in the national interest.

Public notice of this determination is ordered to be published in the **Federal Register.**

Dated: May 28, 1985.

Thomas E. Harvey,

General Counsel and Congressional Liaison.

[FR Doc. 85-13104 Filed 5-30-85; 8:45 am]

BILLING CODE 8230-01-M

Sunshine Act Meetings

Federal Register
Vol. 50, No. 105
Friday, May 31, 1985

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94-409) 5 U.S.C. 552b(e)(3).

CONTENTS

	Items
Equal Employment Opportunity Commission	1, 2
Federal Deposit Insurance Corporation	3–7
Federal Home Loan Bank Board	8
Federal Maritime Commission	9
Pacific Northwest Electric Power and Conservation Planning Council	10
Securities and Exchange Commission	11
Synthetic Fuels Corporation	12

1

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

DATE AND TIME: Tuesday, June 11, 1985, 9:30 a.m. (Eastern Time).

PLACE: Clarence M. Mitchell, Jr., Conference Room No. 200-C on the 2nd Floor of the Columbia Plaza Office Building, 2401 "E" Street, NW., Washington, D.C. 20507.

STATUS: Part will be open to the public and part will be closed to the public.

MATTERS TO BE CONSIDERED:

1. Announcement of Notation Vote(s)
2. A Report on Commission Operations (Optional)
3. Request for Approval of Midyear Modifications to FEP Contracts

Closed

1. Litigation Authorization; General Counsel Recommendations
2. Options Paper on Enforcement of an EPA/LOV
3. Proposed Commission Decisions

Note.—Any matter not discussed or concluded may be carried over to a later meeting. (In addition to publishing notices on EEOC Commission Meetings in the Federal Register, the Commission also provides a recorded announcement a full week in advance on future Commission sessions. Please telephone (202) 634–6748 at all times for information on these meetings).

CONTACT PERSON FOR MORE INFORMATION: Cynthia C. Matthews, Executive Officer, Executive Secretariat at (202) 634–6748.

Dated: May 29, 1985.

Cynthia C. Matthews,

Executive Officer.

This Notice Issued May 29, 1985.

[FR Doc. 85–13195 Filed 5–29–85; 3:40 pm]

BILLING CODE 6750–06–M

2

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: 50 FR 21011.

PREVIOUSLY ANNOUNCED TIME AND DATE OF MEETING: 2:00 PM (Eastern Time), Monday, June 3, 1985.

CHANGE IN THE MEETING: The following matters have been postponed and rescheduled for June 11, 1985.

Options Paper on Enforcement of an EPA/LOV
Proposed ORA Decision

CONTACT PERSON FOR MORE INFORMATION: Cynthia C. Matthews, Executive Officer Executive Secretariat, at (202) 634–6748.

Dated: May 29, 1985.

Cynthia C. Matthews,

Executive Officer, Executive Secretariat.

This Notice Issued May 29, 1985.

[FR Doc. 85–13196 Filed 5–29–85; 3:40 pm]

BILLING CODE 6750–06–M

3

FEDERAL DEPOSIT INSURANCE CORPORATION

Agency Meeting

Pursuant to the provisions of the "Government in the Sunshine Act" (5 U.S.C. 552b), notice is hereby given that at 1:50 p.m. on Friday, May 24, 1985, the Board of Directors of the Federal Deposit Insurance Corporation met in closed session, by telephone conference call, to consider a recommendation with respect to administrative enforcement actions against an insured bank (name and location of bank authorized to be exempt from disclosure pursuant to the provisions of subsections (c)(8) and (c)(9)(A)(ii) of the "Government in the Sunshine Act" (5 U.S.C. 552b(c)(8) and (c)(9)(A)(ii)).

In calling the meeting, the Board determined, on motion of Director Irvine H. Sprague (Appointive), seconded by Director H. Joe Selby (Acting Comptroller of the Currency), that Corporation business required its consideration of the matters on less than seven days' notice to the public; that no earlier notice of the meeting was practicable; that the public interest did not require consideration of the matters in a meeting open to public observation; and that the matters could be considered in a closed meeting pursuant to subsections (c)(6), (c)(8), and (c)(9)(A)(ii) of the "Government in the Sunshine Act" (5 U.S.C. 552b(c)(6), (c)(8), and (c)(9)(A)(ii)).

Dated: May 28, 1985.

Federal Deposit Insurance Corporation.

Hoyle L. Robinson,

Executive Secretary.

[FR Doc. 85–13179 Filed 5–29–85; 3:13 pm]

BILLING CODE 6714–01–M

4

FEDERAL DEPOSIT INSURANCE CORPORATION

Meeting

Pursuant to the provisions of the "Government in the Sunshine Act" (5 U.S.C. 552b), notice is hereby given that at 3:45 p.m. on Thursday, May 23, 1985, the Board of Directors of the Federal Deposit Insurance Corporation met in closed session, by telephone conference call, to: (1) Receive bids for the purchase of certain assets of and the assumption of the liability to pay deposits made in Northwest Bank, White Settlement, Texas, which was closed by the Banking Commissioner for the State of Texas on Thursday, May 23, 1985; (2) accept the bid for the transaction submitted by Landmark Bank—Northwest, White Settlement, Texas, a newly-chartered State nonmember bank; (3) approve the applications of Landmark Bank—Northwest, White Settlement, Texas, for Federal deposit insurance and for consent to purchase certain assets of and assume the liability to pay deposits made in Northwest Bank, White Settlement, Texas; and (4) provide such financial assistance pursuant to section 13(c)(2) of the Federal Deposit Insurance Act (12 U.S.C. 1823(c)(2)), as was necessary to facilitate the purchase and assumption transaction.

In calling the meeting, the Board determined, on motion of Director Irvine H. Sprague (Appointive), seconded by Director H. Joe Selby (Acting Comptroller of the Currency), that

Corporation business required its consideration of the matters on less then seven days' notice to the public; that no earlier notice of the meeting was practicable; that the public interest did not require consideration of the matters in a meeting open to public observation; and that the matters could be considered in a closed meeting pursuant to subsections (c)(6), (c)(8), (c)(9)(A)(ii), and (c)(9)(B) of the "Government in the Sunshine Act" (5 U.S.C. 552b(c)(6), (c)(8), (c)(9)(A)(ii), and (c)(9)(B)).

Dated: May 28, 1985.

Federal Deposit Insurance Corporation.

Hoyle L. Robinson,

Executive Secretary.

[FR Doc. 85-13180, Filed 5-29-85; 3:13 p.m.]

BILLING CODE 6714-01-M

5

FEDERAL DEPOSIT INSURANCE CORPORATION

Agency Meeting

Pursuant to the provisions of the "Government in the Sunshine Act" (5 U.S.C. 552b), notice is hereby given that at 2:45 p.m. on Thursday, May 23, 1985, the Board of Directors of the Federal Deposit Insurance Corporation met in closed session, by telephone conference call, to consider recommendations with respect to administrative enforcement proceedings against an insured bank and certain individuals connected with the bank (names of individuals and name and location of bank authorized to be exempt from disclosure pursuant to the provisions of subsections (c)(6), (c)(8), and (c)(9)(A)(ii) of the "Government in the Sunshine Act" (5 U.S.C. 552b(c)(6), (c)(8) and (c)(9)(A)(ii))).

In calling the meeting, the Board determined, on motion of Director Irvine H. Sprague (Appointive), seconded by Director H. Joe Selby (Acting Comptroller of the Currency), that Corporation business required its consideration of the matters on less than seven days' notice to the public; that no earlier notice of the meeting was practicable; that the public interest did not require consideration of the matters in a meeting open to public observation; and that the matters could be considered in a closed meeting pursuant to subsections (c)(6), (c)(8), and (c)(9)(A)(ii) of the "Government in the Sunshine Act" (5 U.S.C. 552b(c)(6), (c)(8), and (c)(9)(A)(ii)).

Dated: May 28, 1985.

Federal Deposit Insurance Corporation.

Hoyle L. Robinson,

Executive Secretary.

[FR Doc. 85-13181 Filed 5-29-85; 3:13 pm]

BILLING CODE 6714-01-M

6

FEDERAL DEPOSIT INSURANCE CORPORATION

Change in Subject Matter of Agency Meeting

Pursuant to the provisions of subsection (e)(2) of the "Government in the Sunshine Act" (5 U.S.C. 552b(e)(2)), notice is hereby given that at its closed meeting held at 2:30 p.m. on Tuesday, May 28, 1985, the Corporation's Board of Directors determined, on motion of Director Irvine H. Sprague (Appointive), seconded by Mr. Michael A. Mancusi, acting in the place and stead of Director H. Joe Selby (Acting Comptroller of the Currency), that Corporation business required the withdrawal from the agenda for consideration at the meeting, on less than seven days' notice to the public, of the following matter:

Application of American Express Centurion Bank, a proposed new bank to be located at 300 Continental Drive, Stanton (P.O. Newark), Delaware, for Federal deposit insurance.

The Board further determined, by the same majority vote, that no earlier notice of this change in the subject matter of the meeting was practicable.

Dated: May 28, 1985.

Federal Deposit Insurance Corporation.

Hoyle L. Robinson,

Executive Secretary.

[FR Doc. 85-13182 Filed 5-29-85; 3:13 pm]

BILLING CODE 6714-01-M

7

FEDERAL DEPOSIT INSURANCE CORPORATION

Changes in Subject Matter of Agency Meeting

Pursuant to the provisions of subsection (e)(2) of the "Government in the Sunshine Act" (5 U.S.C. 552b(e)(2)), notice is hereby given that at its open meeting held at 2:00 p.m. on Tuesday, May 28, 1985, the Corporation's Board of Directors determined, on motion of Director Irvine H. Sprague (Appointive), seconded by Mr. Michael A. Mancusi, acting in the place and stead of Director H. Joe Selby (Acting Comptroller of the Currency), that Corporation business required the addition to the agenda for consideration at the meeting, on less than seven days' notice to the public, of the following matters:

Application of Century Savings Bank, an operating noninsured institution located at 2994 Northwest Boulevard, Upper Arlington, Ohio, for Federal deposit insurance.

Application of The Sabina Bank, Sabina, Ohio, an insured State member bank, for consent to acquire the assets of and assume the liability to pay deposits made in Sabina Building and Loan Company, Sabina, Ohio, a non-federally insured institution.

Recommendation regarding the liquidation of a bank's assets acquired by the Corporation in its capacity as receiver, liquidator, or liquidating agent of those assets:

Case No. 46,225-L (2nd Amendment)
The First National Bank of Midland, Midland, Texas

By the same majority vote, the Board further determined that no earlier notice of these changes in the subject matter of the meeting was practicable.

Dated: May 28, 1985.

Federal Deposit Insurance Corporation.

Hoyle L. Robinson,

Executive Secretary.

[FR Doc. 85-13183 Filed 5-29-85; 3:13 pm]

BILLING CODE 6714-01-M

8

FEDERAL HOME LOAN BANK BOARD

TIME AND DATE: Friday, June 7, 1985, at 10:30 a.m.

PLACE: In the Board Room, 6th Floor, 1700 G St., NW., Washington, D.C.

STATUS: Open meeting.

CONTACT PERSON FOR MORE INFORMATION: Ms. Gravlee (202-377-6679).

MATTERS TO BE CONSIDERED:

Affiliated-Persons Transactions
Loans to One Borrower
Mortgage-Backed Securities
Criminal Referrals and Other Reports or Statements

Jeff Sconyers,

Secretary.

No. 9, May 29, 1985.

[FR Doc. 85-13173 Filed 5-29-85; 2:32 pm]

BILLING CODE 6720-01-M

9

FEDERAL MARITIME COMMISSION

TIME AND DATE: 9:00 a.m.—June 5, 1985.

PLACE: Hearing Room One—1100 L Street, NW., Washington, D.C. 20573.

STATUS: Closed.

MATTERS TO BE CONSIDERED:

Portions Closed to the Public

1. Agreement No. 202-010689: Actions of the Transpacific Westbound Rate Agreement.

2. Dockets Nos. 84-6—The Port Authority of New York and New Jersey v. New York Shipping Association, et al., and 84-8—Puerto

Rico Maritime Shipping Authority and Puerto Rico Marine Management, Inc. v. New York Shipping Association, Inc.——Consideration of documents filed to comply with the Commission's Order of February 27, 1985, and various pleadings related thereto.

CONTACT PERSON FOR MORE INFORMATION: Bruce A. Dombrowski, Acting Secretary, (202) 523–5725.

Bruce A. Dombrowski,

Acting Secretary.

[FR Doc. 85–13172 Filed 5–29–85; 2:19 pm]

BILLING CODE 6730–01–M

10

PACIFIC NORTHWEST ELECTRIC POWER AND CONSERVATION PLANNING COUNCIL

ACTION: Notice of meeting to be held pursuant to the Government in the Sunshine Act (5 U.S.C. 552b); correction.

SUMMARY: This document corrects the meeting dates published on May 28, 1985 at 50 FR 21690 as May 15–16, 1985. The correct dates are June 5–6, 1985.

FOR FURTHER INFORMATION CONTACT: Ms. Bess Wony, (503) 222–5161.

Edward Sheets,

Executive Director.

[FR Doc. 85–13128 Filed 5–29–85; 9:44 am]

BILLING CODE 0000–00–M

11

SECURITIES AND EXCHANGE COMMISSION

Notice is hereby given, pursuant to the provisions of the Government in the Sunshine Act, Pub. L. 94–409, that the Securities and Exchange Commission will hold the following meetings during the week of June 3, 1985.

A closed meeting will be held on Wednesday, June 5, 1985, at 2:30 p.m. An open meeting will be held on Thursday, June 6, 1985, at 10:00 a.m., in Room 1C30.

The Commissioners, Counsel to the Commissioners, the Secretary of the Commission, and recording secretaries will attend the closed meeting. Certain staff members who are responsible for the calendared matters may be present.

The General Counsel of the Commission, or his designee, has certified that, in his opinion, the items to be considered at the closed meeting may be considered pursuant to one or more of the exemptions set forth in 5 U.S.C. 552b(c) (4), (8), (9)(A) and (10) and 17 CFR 200.402(a)(4), (8), (9)(i) and (10).

Commissioner Peters, as duty officer, voted to consider the items listed for the closed meeting in closed session.

The subject matter of the closed meeting scheduled for Wednesday, June 5, 1985, at 2:30 p.m., will be:

Formal orders of investigation.

Amend institution of administrative proceeding of an enforcement nature and reject settlement of administrative proceeding.

Institution of injunctive actions.

Institution of administrative proceeding of an enforcement nature.

Settlement of administrative proceeding of an enforcement nature.

The subject matter of the open meeting scheduled for Thursday, June 6, 1985, at 10:00 a.m., will be:

1. Consideration of whether to issue a release correcting technical omissions and errors in Regulation S–X, Regulation S–K, and various rules and forms under the Securities Act of 1933 and the Securities Exchange Act of 1934. For further information, please contact Dorothy E. Walker at (202) 272–7343.

2. Consideration of whether to grant the application filed by Hiram Walker Commercial Paper, Inc., a finance corporation which proposes to sell commercial paper to public investors and which is wholly owned by an independent third party rather than by the sponsoring entity receiving the proceeds of the commercial paper offerings. For further information, please contact Edward Siedle at (202) 272–3024.

3. Consideration of whether to adopt amendments to rule 22c-1 and a new rule 22e-2 under the Investment Company Act of 1940 to require investment companies to calculate the net asset value of their redeemable securities only on customary business days exclusive of holidays. For further information, please contact Jay Gould at (202) 272–2107.

At times changes in Commission priorities require alterations in the scheduling of meeting items. For further information and to ascertain what, if any, matters have been added, deleted or posponed, please contact: Alan Dye at (202) 272–2014.

John Wheeler,

Secretary.

[FR Doc. 85–13112 Filed 5–28–85; 5:15 pm]

BILLING CODE 8010–01–M

12

SYNTHETIC FUELS CORPORATION

Meeting of the Comprehensive Strategy Committee of the Board of Directors

ENTITY: Synthetic Fuels Corporation.

ACTION: Notice of Meeting.

SUMMARY: Interested members of the public are invited to attend and observe a meeting of the Comprehensive Strategy Committee of the Board of Directors of the United States Synthetic Fuels Corporation to be held at the time, date and place specified below. This public announcement is made pursuant to the open meeting requirements of section 116(f)(1) of the Energy Security Act (94 Stat. 611, 637; 42 U.S.C. 8701, 7812(f)(1)) and section 4 of the Corporation's Statement of Policy on Public Access to Board meetings.

Matters to be considered:

Comprehensive Strategy Committee

Consideration of Draft of the Corporation's Comprehensive Strategy Report and appendices.

TIME AND DATE: 9:00 a.m., June 3, 1985.

PLACE: U.S. Synthetic Fuels Corporation, 2121 K Street, NW., Room 503, Washington, D.C. 20586.

PERSON TO CONTACT FOR MORE INFORMATION: If you have any questions regarding this meeting, please contact Karen Hutchinson, Director of Media Relations at (202) 822–6455.

United States Synthetic Fuels Corporation.

March Coleman,

Assistant General Counsel–Corporate & Litigation.

May 29, 1985.

[FR Doc. 85–13156 Filed 5–30–85; 9:21 am]

BILLING CODE 0000–00–M

federal register

Friday
May 31, 1985

Part II

Department of Labor

Employment Standards Administration, Wage and Hour Division

Minimum Wages for Federal and Federally Assisted Construction; General Wage Determination Decisions, Notice

DEPARTMENT OF LABOR

Employment Standards Administration, Wage and Hour Division

Minimum Wages for Federal and Federally Assisted Construction; General Wage Determination Decisions

General wage determination decisions of the Secretary of Labor specify, in accordance with applicable law and on the basis of information available to the Department of Labor from its study of local wage conditions and from other sources, the basic hourly wage rates and fringe benefit payments which are determined to be prevailing for the described classes of laborers and mechanics employed on construction projects of the character and in the localities specified therein.

The determinations in these decisions of such prevailing rates and fringe benefits have been made by authority of the Secretary of Labor pursuant to the provisions of the Davis-Bacon Act of March 3, 1931, as amended (46 Stat. 1494, as amended 40 U.S.C. 276a) and of other Federal statutes referred to in 29 CFR 5.1 (including the statutes listed at 36 FR 306 (1970) following Secretary of Labor's Order No. 24–70) containing provisions for the payment of wages which are dependent upon determination by the Secretary of Labor under the Davis-Bacon Act; and pursuant to the provisions of part 1 of subtitle A of title 29 of Code of Federal Regulations Procedure for Predetermination of Wage Rates, 48 FR 19533 (1983) and of Secretary of Labor's Orders 9–83, 48 FR 35736 (1983), and 6–84, 49 FR 32473 (1984). The prevailing rates and fringe benefits determined in these decisions shall, in accordance with the provisions of the foregoing statutes, constitute the minimum wages payable on Federal and federally assisted construction projects to laborers and mechanics of the specified classes engaged on contract work of the character and in the localities described therein.

Good cause is hereby found for not utilizing notice and public procedure thereon prior to the issuance of these determinations as prescribed in 5 U.S.C. 553 and not providing for delay in the effective date as prescribed in that section, because the necessity to issue construction industry wage determination frequently and in large volume causes procedures to be impractical and contrary to the public interest.

General wage determination decisions are effective from their date of publication in the **Federal Register** without limitation as to time and are to be used in accordance with the provisions of 29 CFR Parts 1 and 5. Accordingly, the applicable decision together with any modifications issued subsequent to its publication date shall be made a part of every contract for performance of the described work within the geographic area indicated as required by an applicable Federal prevailing wage law and 29 CFR, Part 5. The wage rates contained therein shall be the minimum paid under such contract by contractors and subcontractors on the work.

Modifications and Supersedeas Decisions to General Wage Determination Decisions

Modifications and supersedeas decisions to general wage determination decisions are based upon information obtained concerning changes in prevailing hourly wage rates and fringe benefit payments since the decisions were issued.

The determinations of prevailing rates and fringe benefits made in the modifications and supersedeas decisions have been made by authority of the Secretary of Labor pursuant to the provisions of the Davis-Bacon Act of March 3, 1931, as amended (46 Stat. 1494, as amended 40 U.S.C. 276a) and of other Federal statutes referred to in 29 CFR 5.1 (including the statutes listed at 36 FR 306 (1970) following Secretary of Labor's Order No. 24–70) containing provisions for the payment of wages which are dependent upon determination by the Secretary of Labor under the Davis-Bacon Act; and pursuant to the provisions of Part 1 of Subtitle A of Title 29 of Code of Federal Regulations Procedure for Predetermination of Wage Rates, 48 FR 19533 (1983) and of Secretary of Labor's Order 6–84, 49 FR 32473 (1984). The prevailing rates and fringe benefits determined in foregoing general wage determination decisions, as hereby modified, and/or superseded shall, in accordance with the provisions of the foregoing statutes, constitute the minimum wages payable on Federal and federally assisted construction projects to laborers and mechanics of the specified classes engaged in contract work of the character and in the localities described therein.

Modifications and supersedeas decisions are effective from their date of publication in the **Federal Register** without limitation as to time and are to be used in accordance with the provisions of 29 CFR Parts 1 and 5.

Any person, organization, or governmental agency having an interest in the wages determined as prevailing is encouraged to submit wage rate information for consideration by the Department. Further information and self-explanatory forms for the purpose of submitting this data may be obtained by writing to the U.S. Department of Labor, Employment Standards Administration, Wage and Hour Division, Office of Program Operations, Division of Wage Determinations, Washington, D.C. 20210. The cause for not utilizing the rulemaking procedures prescribed in 5 U.S.C. 553 has been set forth in the original General Determination Decision.

Modifications to General Wage Determination Decisions

The numbers of the decision being modified and their dates of publication in the **Federal Register** are listed with each State.

Colorado: CO85–5015	Mar. 15, 1985.
Delaware: DE85–3021	Apr. 19, 1985.
Illinois: IL85–5007	Feb. 8, 1985.
Louisiana: LA84–4055	Sept. 28, 1984.
Michigan:	
MI83–2009	Feb. 11, 1983.
MI83–2008	Do.
MI83–2020	Mar. 18, 1983.
Nevada: NV84–5014	June 8, 1984.
Pennsylvania:	
PA85–3012	Mar. 8, 1985.
PA84–3004	Feb. 17, 1984.
Rhode Island: RI84–3044	Nov. 30, 1984.
Virginia: VA82–3034	Dec. 3, 1982.
Wisconsin: WI84–5028	Dec. 21, 1984.

Cancellation of General Wage Determination Decision

General Wage Decision Number MD79–3021, Carroll County, Maryland, is cancelled. Agencies with construction projects pending to which the cancelled decision would have been applicable should utilize the project determination procedure by submitting Form SF–308. See Regulations Part 1, 29 CFR 1.5 Contracts for which bids have been opened shall not be affected by this notice. Also consistent with 29 CFR 1.6(c)(3)(i), the incorporation of the cancelled decision in contract specifications, the opening of bids for which is within ten (10) days of the notice, need not be affected.

Supersedeas Decisions to General Wage Determination Decisions

The numbers of the decisions being superseded and their dates of publication in the **Federal Register** are listed with each State. Supersedeas decision numbers are in parentheses following the number of the decisions being superseded.

Alabama:	
AL82–1047 (AL85–5004)	Sept. 9, 1982.
AL84–1013 (AL85–1005)	June 15, 1984.

Signed at Washington, D.C. this 24th day of May 1985.

James L. Valin,

Assistant Administrator.

BILLING CODE 4510-27-M

DECISION #CO85-3015-Modf2 (50 FR 10584-March 15, 1985) Adams, Arapahoe, Boulder, Clear Creek, Denver, Douglas, Eagle, Elbert, Gilpin, Grand, Jefferson, Lake, Larimer, Morgan, Park, Summit, and Weld Counties, Colorado	Basic Hourly Rates	Fringe Benefits
CHANGE:		
Boilermakers	$ 17.345	$ 3.25
Bricklayers: Stonemasons: Area 5	17.10	2.25
Carpenters: Adams, Arapahoe, Boulder, Denver and Jefferson Counties: Projects under $2,500,000	10.63	3.12
Projects $2,500,000 and over	12.88	3.13
Remaining counties	10.63	3.12
ELEVATOR CONSTRUCTORS: Mechanics	17.03	a+3.00
Helpers	11.92	a+3.00
Probationary Helpers	8.515	
Glaziers (omit Footnote b.)	15.98	2.45
Ironworkers: Structural, Ornamental, and Reinforcing	16.00	3.53
Laborers: Zone 1: Group 1:	5.45	.15
Group 2:	9.15	2.19
Group 3:	9.40	2.19
Zone 2: Group 1:	5.45	.15
Group 2:	8.00	2.19
Group 3:	8.25	2.19
Millwrights	18.51	2.70
Plumbers: Steamfitters: Area 3:	16.77	4.43
Roofers	13.93	1.11
Sheet Metal Workers	16.30	78+3.68

	Basic Hourly Rates	Fringe Benefits
Painters: Area 1: Brush and Roll; Hardwood Finishers; Sandblast, Pot Tenders	$13.01	$1.88
Drywall Finishers (hand)	13.26	1.88
Spray; Swing Stage and Chair; Sandblast (exterior); Hazardous Work; Paperhangers; Drywall Finishers (tool)	13.61	1.88
Sandblast (interior); Steeplejack	14.93	1.88
Area 2: Brush and Roll; Hardwood Finishers; Sandblast, Pot Tenders	14.92	2.33
Drywall Finishers (hand)	15.17	2.33
Spray; Swing Stage and Chair; Sandblast (exterior); Hazardous Work; Paperhangers; Drywall Finishers (tool)	15.52	2.33
Sandblast (interior); Steeplejack	16.84	2.33

DECISION NO. DE85-3021 - MOD. #1 (50 FR 15693 - April 19, 1985) Statewide Delaware	Basic Hourly Rates	Fringe Benefits
CHANGE:		
BRICKLAYERS & STONEMASONS	14.81	4.19
CARPENTERS Carpenters; Soft floor layers Building & Heavy New Castle & Kent Cos.	16.88	3.77
CEMENT MASONS Building	15.55	3.10
MILLWRIGHTS New Castle & Kent Cos.	18.80	4.39
Sussex Co.	14.62	3.36
PILEDRIVERMEN New Castle & Kent Cos.	15.97	6.91
Sussex Co.	14.67	3.36
LABORERS - Building Construction: New Castle County Class 1	12.92	3.18
Class 2	13.17	3.18
Class 3	13.42	3.18
Class 4	13.92	3.18
Class 5	14.17	3.18
Kent & Sussex Cos. Class 1	12.90	2.95
Class 2	13.15	2.95
Class 3	13.40	2.95
Class 4	13.50	2.95
Class 5	14.15	2.95
LABORERS - Heavy Const. New Castle County: General laborers, asphalt tamper, asphalt raker, concrete pitman, landscaper, planter, puddler railroad trackman, rubber magazine tender, seeder & arboriate and		
Signalman	10.67	3.18
Pipelayers	10.82	3.18
Blasters, caissons, and cofferdams (open air below 8 ft. where excavations for circular caissons and cofferdams are 8 ft. or more below level of natural grade adjacent to start point) diamond point drills, form setters, gunite nozzle operators, and wagon drills	10.97	3.18
LABORERS - Heavy Const. Kent & Sussex Cos. Common laborers, landscrapers, planters, seeders, aborists, asphalt tampers, rakers, concrete pitman, puddlers, rubber magazine tenders, railroad trackman, signal men	9.65	2.95
Pipelayers	9.80	2.95
Wagon drill, diamond point drill, gunite nozzlemen, form setters, blasters, caisson & coffer dams (open air, below 8')	9.95	2.95
MARBLE, TILE & TERRAZZO SETTERS	14.54	4.19
TRUCK DRIVERS Building Construction Group 1	12.535	2.545
Group 2	12.435	2.545
Group 3	12.228	2.545
TRUCK DRIVERS Heavy Construction Group 1	11.685	2.545+k
Group 2	11.585	2.545+k
Group 3	11.435	2.545+k

MODIFICATIONS P. 3

DECISION NO. IL85-5007 - Mod #1
(50 FR 5478 - February 8, 1985)
ALEXANDER, CHAMPAIGN, CHRISTIAN, CLARK, CLAY, COLES, CRAWFORD, CUMBERLAND, DEWITT, DOUGLAS, EDGAR, EDWARD, EFFINGHAM, FAYETTE, FORD, FRANKLIN, GALLATIN, HAMILTON, HARDIN, IROQUOIS, JACKSON, JASPER, JEFFERSON, JOHNSON, LAWRENCE, MARION, MASSAC, MOULTRIE, PERRY, PIATT, POPE, PULASKI, RICHLAND, SALINE, SHELBY, UNION, VERMILLION, WABASH, WAYNE, WHITE & WILLIAMSON COUNTIES, ILLINOIS

	Basic Hourly Rates	Fringe Benefits
OCT:		
CARPENTERS; LATHERS; MILLWRIGHTS; PILEDRIVERMEN and SOFT FLOOR LAYERS: (all areas)		
ADD:		
CARPENTERS; LATHERS; MILLWRIGHTS; PILEDRIVERMEN and SOFT FLOOR LAYERS:		
Area 1	$15.09	$2.45
Area 2:		
Carpenters; Lathers & Soft Floor Layers	16.275	2.47
Millwrights & piledrivermen	16.775	2.47
Area 3:		
Carpenters; Lathers & Soft Floor Layers	16.905	1.84
Millwrights & Piledrivermen	17.405	1.84
Area 4:		
Carpenters; Lathers & Soft Floor Layers	16.17	2.54
Millwrights & Piledrivermen	16.67	2.54
Area 5:		
Carpenters, Soft Floor Layers	15.20	2.80
Millwrights	15.80	2.80
Piledrivermen	15.60	2.80
Area 6:		
Carpenters & Soft Floor Layer	15.68	3.07
Millwrights & Piledrivermen	16.18	3.07
Area 7:	17.85	2.40
Area 8:		
Carpenters; Lathers; Soft Floor Layers	16.155	2.59
Area 9:		
Carpenters; Lathers; Soft Floor Layers	16.105	2.64
Millwrights & Piledrivermen	16.605	2.64

AREA DESCRIPTIONS:
CARPENTERS, LATHERS, MILLWRIGHTS, PILEDRIVERMEN, & SOFT FLOOR LAYERS:
Area 1: Alexander, Clay, Edwards, Fayette, Franklin, Gallatin, Hamilton, Hardin Jackson, Jasper (S. part), Jefferson Johnson, Lawrence (N. part), Massac Perry, Pope, Pulaski, Richland, Saline, Wayne, Union, Wabash, White Williamson
Area 2: Champaign, Douglas (N. part incl. Tuscola & Newman), Piatt (Monticello) Ford (S 1/2) incl. Garber, Guthrie Perdueville, Gibson City, Elliot, Proctor & Clarence)
Area 3: Christian (Millerville, Rosamond, Radford, Pana & vic.), Clark, Coles, Cumberland, Douglas, (S. part exclu. Tuscola & Newman), Lovington, Williamsbury, Lake City & N.) Shelby, and Jasper (N, part)
Area 4: Christian (Morrisville)
Area 5: Crawford, Jasper (E. 1/2) and Lawrence (E. of Sumner Chancy Rd)
Area 6: DeWitt Co.
Area 7: Ford (N. 1/2, N. of Garber), Iroquois, and Vermilion (N. of Rossville Twp.)
Area 8: Moultrie (Bethany, Okaw River, Lovington, Williamsbury, Lake City and N. thereof) and Piatt (remainder)
Area 9: Vermilion (Exclu. N. of Rossville)

MODIFICATIONS P. 4

DECISION NO. LA84-4055 - MOD. #5 (49 FR 38445 - 9/28/84) Statewide Louisiana	Basic Hourly Rates	Fringe Benefits
CHANGE:		
Carpenters:		
Zone 8:		
Carpenters & soft floor layers	$12.00	1.98
Millwrights	12.75	1.98
Piledrivermen	12.25	1.98
Cement masons:		
Zone 7:		
Caddo & Bossier Pars.	10.80	.85
Bienville, Claiborne, DeSoto, Red River & Webster Pars.	9.65	.85
Electricians:		
Zone 4:		
Electricians	18.00	80+3.2%
Cable splicers	18.25	80+3.2%
Zone 7:		
Electricians	12.55	2.40+ 4%
Cable splicers	13.05	2.40+ 4%

DECISION NO. LA84-4055 - MOD. #5 (CONT'D)	Basic Hourly Rates	Fringe Benefits
Laborers:		
Zone 10:		
Laborers (all types)	$ 7.40	.90
Jackhammer ops.	7.50	.90
Lathers - Zone 6	12.50	1.98
Plumbers & pipefitters:		
Zone 4	13.80	2.20
Power Equipment Ops.:		
Zone 1:		
Caddo & Bossier Pars.		
Group 1	12.00	2.20
Group 2	10.00	2.20
Group 3	8.50	2.20
Bienville, Claiborne, DeSoto, Red River & Webster Pars.:		
Group 1	10.40	2.20
Group 2	8.40	2.20
Group 3	7.30	2.20

POWER EQUIPMENT OPERATORS - ZONE 1 CLASSIFICATION DEFINITIONS
GROUP 1 - Asphalt spreader; backhoes, track mounted, over 1/2 CY; backhoe, rubber tired; crawler tractors, bulldozers & front end loaders (over D-4 & equivalent); cableways; concrete mixers, over 16-S; Cranes w/lattice boom; cranes w/hydraulic boom; clamshells; derricks; draglines; forklifts over 10,000 lbs. capacity; grease serviceman; hoist, material, 2 drums & over; hoist, 1 drum 6 stories or more or 60 ft.; heavy duty mechanic and/or welder; hydraulifts & boom trucks; motor patrols; piledrivers; pump, concrete (6" & over); road pavers; scoopmobiles; scrapers; sideboom cats; shovels; trenching & ditching machines, over 66" digging depth; tractor-vators; winch cats (hoisting)
GROUP 2 - Air compressors, over 500 CFM; asphalt plant op.; bull floats; crane, hydrualic, 7-1/2 tons & less; crawler tractors, bulldozers & front end loaders (D-4 & equivalent & under); concrete spreader; finish machines; forklifts to 10,000 lbs.; distributor (bitum surface); dowel bar machine; elevator op. riding inside cab; rubber tire tractor with all attachments (excluding backhoe); fireman; hoist, 1 drum, less than 6 stories or 60 ft.; kolum buff machine; pull cats; pump,concreteunder 6"); rollers; straddle buggies; motorized sweepers on streets & roads; winch trucks, A-frame; water pumps, gasoline or diesel (over 6"); unit operator; oiler/driver; well point operator
GROUP 3 - Oiler

MODIFICATIONS P.5

DECISION NO. MI83-2020 - MOD. #5 (48 FR 11615 - March 18, 1983) Genesee, Huron, Lapeer, etc., Counties, Michigan	Basic Hourly Rates	Fringe Benefits
CHANGE:		
Asbestos Workers:		
St. Clair County	$17.38	$5.02
Boilermakers	16.94	5.70
Bricklayers and Stone Masons:		
Huron and Saginaw Counties	13.52	2.95
St. Clair and Sanilac Counties	14.05	3.25
Carpenters and Soft Floor Layers:		
Genesee, Lapeer and Shawassee Counties:		
Carpenters	10.95	2.12
Soft Floor Layers	10.42	2.12
St. Clair and Sanilac County (Remainder of County)	12.20	2.45* 11&
Cement Masons:		
Huron and Saginaw Counties:		
Cement Masons	12.82	2.45
Plasterers	15.90	1.45
St. Clair and Sanilac Counties:		
Cement Masons	13.39	3.25
Plasterers	10.19	3.25
Elevator Constructors:		
St. Clair County:		
Mechanics	17.30	3.00+a&b
Helpers	12.11	3.00+a&b
Probationary Helpers	8.65	
Remainder of Counties:		
Mechanics	17.38	3.29+a
Helpers	12.17	3.29+a
Probationary Helpers	8.69	
Glaziers:		
Huron and Saginaw Counties	12.11	1.01
St. Clair and Sanilac Counties	9.00	3.20+a
Lathers:		
St. Clair (Southeast portion including Memphis, Marysville and Sparlingville) County	16.97	4.34
Marble, Terrazzo and Tile Finishers:		
Remainder of Counties:		
Marble finishers	13.77	3.05
Terrazzo finishers	14.48	2.30
Tile finishers	$12.40	$2.30
Marble Setters, Terrazzo Workers and Tile Setters:		
Genesee, Lapeer and Shiawassee Counties	$13.90	$4.25
St. Clair and Sanilac Counties:		
Marble setters	16.23	3.80
Terrazzo workers	15.07	3.80
Tile setters	15.62	3.82
Painters:		
Remainder of Counties:		
Brush & roller	13.45	2.26
Spray, paperhangers & vinyl hangers	13.75	2.26
Sandblast	13.95	2.26
Pressure roller	14.25	2.26
Plumbers & Pipefitters:		
Genesee, Lapeer and Shiawassee Counties	19.71	4.82
Saginaw County	14.30	3.96
Remainder of Counties:		
Plumbers (all other work)	15.09	6.43
Power Equipment Operators:		
St. Clair County:		
Crane Operator	15.21	4.35
Regular Engineer	14.84	4.35
Compressor and Welding machine operators	12.59	4.35
Fireman and oiler	11.77	4.35
Remainder of Counties:		
Crane, stiff leg derrick, scraper, dozer, grader, front end loader, hoist and machanic	15.35	4.35
Air tugger (single drum), material hoist, boiler, sweeping machine, winch truck, bob-cat and similar type equipment, and fork truck (over 20' lift)	13.75	4.35
Pump 6" and over, well points, freeze systems, boom truck (non-swinging)	13.45	4.35
Air compressor, welder, generators, pump under 6," grease man, conveyor, fork truck (20' lift and under)	12.05	4.35

MODIFICATIONS P. 6

DECISION NO. MI83-2020 MOD #5	Basic Hourly Rates	Fringe Benefits
Change (Cont'd):		
Power Equipment Operators (Cont'd):		
Oiler, fireman, and heater operator	$11.20	$4.35
Roofers:		
Genesee, Lapeer and Shiawassee Counties	14.65	3.20
Sheet Metal Workers:		
St. Clair and Sanilac Counties	10.11	2.04
Remainder of Counties	14.73	6.31
Truck Drivers:		
Saginaw County:		
Change Fringe Benefits only to read:		*104.50
Huron, St. Clair and Sanilac Counties		
Pole trailer, low boy, straddle carrier, double bottom, special permit load driver, fuel truck	14.05	*111.50
Semi, tractor trailer	13.95	*111.50
All other trucks	13.80	*111.50
Remainder of Counties:		
Truck drivers	11.54	*120.50
ADD:		
Plumbers and Pipefitters:		
Remainder of Counties:		
Work on single family homes and apartments up to and including 2 stories; also strip stores, remodeling existing supermarket; restaurant work (plumbing contracts $25,000 or less), convenience stores, industrial park type warehouse buildings up to 50,000 sq. ft. with or without an additional 10,000 sq. ft. of office space, 1 store retail or office buildings up to 10,000 sq. ft., tenant work up to 10,000 sq. ft. per tenant	13.90	3.20

MODIFICATIONS P. 7

DECISION NO. MI 83-2009 -	Basic Hourly Rates	Fringe Benefits
MOD. #2		
(48 FR 6453 - February 11, 1983)		
Marquette County, Michigan		
CHANGE:		
Asbestos Workers	$17.75	$2.01
Boilermakers	16.94	5.70
Bricklayers, Stone Masons, Plasterers, Terrazzo Workers and Tile Setters	14.24	2.12
Carpenters and Soft Floor Layers	11.08	2.12
Cement Masons	13.74	2.12
Electricians	9.60	1.33+3%
Ironworkers	14.54	4.87
Millwrights	16.67	2.12
Piledrivermen	14.97	2.12
Plumbers & Pipefitters	14.97	2.80
Power Equipment Operators:		
Class A	12.97	4.30+13%
Class B	11.47	4.30+13%
Class C	10.96	4.30+13%
Class D	10.21	4.30+13%
Sheet Metal Worker	15.22	3.53
Truck Drivers:		
Euclid Type Equipment	11.76	b + c
Truck repair and maintenance	11.61	b + c
Heavy duty, double axle, and semi trucks	11.53	b + c
Other trucks not specified above	11.40	b + c
Charge Footnote b to read: Employer contribution of $79.50 per week per employee.		
OMIT:		
Painters & Glaziers		
ADD:		
Glaziers	16.50	.65
Painters:		
New construction	11.00	.90
Repaint work	9.00	.90
Plasterers	14.24	2.12

DECISION NO. MI83-2008 -	Basic Hourly Rates	Fringe Benefits
MOD. #11		
(48 FR 6456 - February 11, 1983)		
Alger, Baraga, Chippewa, etc., Counties Michigan		
CHANGE:		
Carpenters, Millwrights, Piledriverman and Soft Floor Layers:		
Remainder of Counties: Millwrights	$16.92	$2.12

DECISION NO. NV84-5014	Basic Hourly Rates	Fringe Benefits
MOD #12		
(49 FR 23988-June 8, 1984)		
Statewide (does not include the Test Range, or Building construction in Churchill, Lyon and Mineral Counties, or Highway construction in Douglas County), Nevada		
Change:		
Power Equipment Operators: Clark, Esmeralda, Lincoln and Nye Counties- Fringe Benefits to read:		$7.35
Remaining Counties (Except Piledriving and Steel Erection)- Fringe Benefits to read:		9.19
Remaining Counties- Piledriving Fringe Benefits to read:		9.19
Remaining Counties-Steel Erection: Fringe Benefits to read:		9.19

MODIFICATIONS P. 8

DECISION NO. PA85-3012 -	Basic Hourly Rates	Fringe Benefits
MOD. #3		
(50 FR 9568 - March 8, 1985)		
Bucks, Chester, Delaware, Montgomery & Philadelphia Counties, Pennsylvania		
CHANGE:		
BRICKLAYERS:		
New Residential: Under 4 stories	17.47	2.57
All other work		
Zone 1	16.76	4.52
Zone 2	17.36	4.39
Zone 3	17.02	4.25
CARPENTERS:		
Residential under 4 stories		
Bucks, Delaware & Montgomery Counties	13.68	6.11
Philadelphia County	15.72	6.36
All other work	15.82	6.36
CEMENT MASONS		
Zone 1	14.25	7.04
DRY WALL FINISHERS	16.03	6.69
LATHERS		
Zone 1	15.82	6.36
MILLWRIGHTS	16.32	6.36
ROOFERS		
All other work	20.12	3.83+h
Mechanic II (for all other work) - Handler and transports all Materials, tools and equipment; cleanup debris	8.25	3.83+h
SHEET METAL WORKERS	18.73	5.54
SOFT FLOOR LAYERS	15.53	6.66
SPRINKLER FITTERS (Zone 7)	18.42	3.80
MARBLE SETTERS	15.47	3.85
MARBLE FINISHERS	12.95	5.05
PAINTERS:		
Zone 2		
Commercial, brush	16.08	3.90
Commercial, spray	16.58	3.90
TILE SETTERS	13.90	5.40
TILE FINISHERS	12.72	5.05
TERRAZZO FINISHERS	12.93	5.05

DECISION NO. PA84-3004 -	Basic Hourly Rates	Fringe Benefits
MOD. #5		
(49 FR 6209 - February 17, 1984)		
Armstrong, Beaver, Butler, Fayette, Indiana, Washington, Allegheny & Westmoreland Counties, Pennsylvania		
ADD:		
PLASTERERS		
Zone 1		
"Board Coaters"	12.77	4.04

DECISION NO. VA82-3034-	Basic Hourly Rates	Fringe Benefits
MOD. #8		
(47 FR 54746-December 3, 1982)		
The Cities of CHESAPEAKE, PORTSMOUTH, & VIRGINIA BEACH		
CHANGE:		
IRONWORKERS:		
Reinforcing, Ornamental, Structural, Riggers, Fence Erectors, Machinery Movers	13.75	2.65

DECISION NO. RI84-3043
MOD. #1
(49 FR 47171 - November 30, 1984)
Statewide, Rhode Island

CHANGE:

	Basic Hourly Rates	Fringe Benefits
GLAZIERS	15.63	3.77
IRONWORKERS	16.03	5.70
LABORERS		
(Building Construction) Laborers; Carpenters Tenders; Cement Finisher Tenders; Mason Tenders; Scaffold Erectors & Wrecking Laborers	14.70	2.80
Asphalt Rakers; Adreman; pipe-trench Bracers; Demolition Burners; Chain Saw Ops.; Fence & Guard Rail Erectors; Setters of Metal Forms for Roadways; Pipelayers Riprap & Dry Stonewall Builders; Highway Stone Spreaders Pneumatic Tools Ops., Wagon Drill Ops., Tree Trimmers; Barco Type Jumping Tampers; Mechanical Grinder Ops., Plasterers' Tenders; Scaffold Builders; Mortar Mixers	14.95	2.80
Pre-cast Floor & Roof Plank Erectors	15.20	2.80
Air Track Ops.; Block Pavers; Rammers; & Curb Setters	15.45	2.80
Blasters; Powdermen	15.95	2.80
LABORERS (Heavy & Highway Construction): Laborers; Carpenters Tenders; Cement Finisher Tenders; Mason Tenders; Scaffold Erectors & Wrecking laborers	14.70	2.80
Concrete & Power Buggy Ops.; Concrete Saw Ops.; Demolition Burners; Fence & Guard Rail Erectors; Highway Stone Spreaders; Mason Tenders; Mechanical Grinder Ops.; Mortar Mixers; Pipe Trench Bracers; Pneumatic Tool Ops.; Riprap & Dry Stone wall Builders; Scaffold Erectors; Setters of Metal Forms for Roadways; Wagon Drill Ops.; Wood Chipper Ops.	14.95	2.80
Air Track Drill Ops.; Brick Pavers; Block Pavers; Rammers; Curb Setters	15.45	2.80
Blaster & Powdermen	15.95	2.80
LINE CONSTRUCTION: Lineman	18.05	2.10+ 4.375%
Equipment Operator; Cable Splicer & Driver	15.34	2.10+ 4.375%
Groundman, Driver	14.44	2.10+ 4.375%
TRUCK DRIVERS (Building Construction): Dump & Two-axle Equipment drivers	13.24	2.8725
Trailer & 3-axle Equipment drivers	13.32	2.8725
Low bed trailers (24-ton rated capacity & over); I-beam Trailers; specialized earth moving equipment Euclid type	13.57	2.8725
Euclid type equipment over 35-ton capacity	13.82	2.8725

DECISION NUMBER WI84-5028-MOD #2
(49 FR - 49827 - December 21, 1984)
Bayfield and Douglas Counties Wisconsin

OMIT:
Fringe Benefits for Elevator Helpers (probationary)

ADD:
Modification Number 1 to heading of Modification issued May 3, 1985

STATE: ALABAMA COUNTY: MADISON
DECISION NUMBER: AL85-1005 DATE: DATE OF PUBLICATION
Supersedes Decision No.: AL84-1013 dated June 15, 1984 in 49 FR 24854.
DESCRIPTION OF WORK: BUILDING CONSTRUCTION PROJECTS: (does not include single family homes and apartments up to and including 4 stories.)

	Basic Hourly Rates	Fringe Benefits
ASBESTOS WORKERS/HEAT AND FROST INSULATORS	$ 8.50	
BRICKLAYERS	10.00	
CARPENTERS (includes drywall hanging and accoustical work)	8.35	
CEMENT MASON	7.14	
ELECTRICIANS	7.87	
ELEVATOR CONSTRUCTORS: Mechanics	13.16	3.29+a
Helpers	9.21	3.29+a
Probationary Helpers	6.58	
GLAZIERS	8.25	
INSULATION INSTALLERS: Batt and Blown	5.50	
IRONWORKERS	7.05	
LABORERS, GENERAL	4.79	
METAL BUILDING ERECTORS	6.20	1.38
PAINTERS	6.94	
PIPEFITTERS (includes HVAC work)	9.53	.45
PLASTERERS	10.00	
PLUMBERS	8.37	
ROOFERS	$ 8.31	
SHEET METAL WORKERS	9.26	
SPRINKLER FITTERS	8.05	
TILE SETTERS	8.51	
POWER EQUIPMENT OPERATORS: Backhoe	7.75	
BobCat	7.00	
Forklift	7.00	

FOOTNOTE:
a - SEVEN PAID HOLIDAYS: New Years Day; Memorial Day; Independence Day; Labor Day; Thanksgiving Day; Friday after Thanksgiving Day; & Christmas Day

VACATION PAY CREDIT: Employer contributes 8% of the basic hourly rate for employees with 5 years or more of service for all hours worked, or 6% of the basic hourly rate for employees with 6 months to 5 years of service for all hours worked.

WELDERS: Receive rate prescribed for craft performing operation to which welding is incidental.

Unlisted classifications needed for work not included with the scope of the classifications listed may be added after award only as provided in the labor standards contract clauses (29 CFR, 5.5(a)(1)(ii)).

SUPERSEDEAS DECISION

STATE: ALABAMA

COUNTIES: LAWRENCE, LIMESTONE AND MORGAN

DECISION NUMBER: AL85-1004

DATE: DATE OF PUBLICATION

Supersedes Decision No.: AL82-1047 dated September 9, 1982 in 47 FR 41249.

DESCRIPTION OF WORK: BUILDING CONSTRUCTION PROJECTS: (does not include single family homes and apartments up to and including 4 stories).

	Basic Hourly Rates	Fringe Benefits
ASBESTOS WORKER/HEAT AND FROST INSULATORS	$ 8.50	
BOILERMAKERS	16.20	3.875
BRICKLAYERS	10.00	
CARPENTERS	8.39	
ELECTRICIANS	7.28	.17
ELEVATOR CONSTRUCTORS:		
Mechanics	13.16	3.29+a
Helpers	9.21	3.29+a
Probationary Helpers	6.58	
IRONWORKERS	10.00	
LABORERS, GENERAL	4.83	
MILLWRIGHTS	11.20	1.59
PAINTERS	6.56	
PLUMBERS & PIPEFITTERS	8.50	
ROOFERS	6.50	
SHEET METAL WORKERS	9.00	
SPRINKLER FITTERS	8.35	
POWER EQUIPMENT OPERATORS:		
Backhoe	$ 9.30	
Bulldozer	7.00	
Crane	9.26	

FOOTNOTE:

a - SEVEN PAID HOLIDAYS: New Years Day; Memorial Day; Independence Day; Labor Day; Thanksgiving Day; Friday after Thanksgiving Day; and Christmas Day.

VACATION PAY CREDIT: Employer contributes 8% of the basic hourly rate for employees with 5 years or more of service for all hours worked, or 6% of the basic hourly rate for employees with 6 months to 5 years of service for all hours worked.

WELDERS: Receive rate prescribed for craft performing operation to which welding is incidental.

Unlisted classifications needed for work not included within the scope of the classifications listed may be added after award only as provided in the labor standards contract clauses (29 CFR, 5.5(a)(1)(ii)).

[FR Doc. 85-12984 Filed 5-31-85; 8:45 am]

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federal register

Friday
May 31, 1985

Part III

Environmental Protection Agency

40 CFR Part 268

Schedule for Land Disposal Restrictions; Proposed Rule and Request for Comments

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 268

[SWH-FRL 2808-3]

Schedule for Land Disposal Restrictions

AGENCY: Environmental Protection Agency .

ACTION: Proposed rule and request for comments.

SUMMARY: The Environmental Protection Agency is proposing a schedule setting forth the order in which listed hazardous wastes will be prohibited from land disposal unless EPA can set appropriate standards or grant case-by-case exemptions. Development of a schedule for these determinations is mandated by section 3004 of the Resource Conservation and Recovery Act as amended by the Hazardous and Solid Waste Amendments of 1984. Pursuant to the Act, if EPA fails to set treatment standards or grant exemptions in accordance with this schedule, hazardous wastes will be subject to partial land disposal restrictions or banned from land disposal.

DATE: Comments on this proposed rule must be submitted on or before July 30, 1985.

ADDRESSES: Comments on this proposed rule should be sent to Docket Clerk, ATTN: LDR-1, Office of Solid Waste (WH-562), U.S. Environmental Protection Agency, 401 M Street, SW., Washington, D.C. 20460. The public docket is available for viewing from 9:00 A.M. to 4:00 P.M., Monday through Friday, except holidays.

FOR FURTHER INFORMATION CONTACT: For general information contact the RCRA Hotline, Office of Solid Waste (WH-562), U.S. Environmental Protection Agency, 401 M Street, SW., Washington, D.C. 20460, (800) 424-9346 toll free or 382-3000 local.

For information on specific aspects of this proposed rule contact: Susan Bromm, Office of Solid Waste (WH-562B), U.S. Environmental Protection Agency, 401 M Street, SW., Washington, D.C. 20460, (202) 382-4770.

SUPPLEMENTARY INFORMATION:

I. Background
A. Overview of the Land Disposal Restriction Provision
B. Statutory Ban Dates
C. Failure by EPA to Meet Statutory Deadlines
II. Proposed Methodology for Establishing Schedule
A. Schedule Methodology Proposed by EPA
B. Alternative Methodologies for Schedule Development Examined by EPA
C. Wastes Included in the Ranking
D. Schedule Interpretation
E. Request for Comments and Data
III. Regulatory Impact
A. Regulatory Impact
B. Regulatory Flexibility Act
C. Paperwork Reduction Act
D. Impact on Authorized States
E. References
List of Subjects

I. Background

A. Overview of the Land Disposal Restriction Provision

On October 21, 1976, Congress enacted the Resource Conservation and Recovery Act (RCRA) to protect human health and the environment and to conserve material and energy resources. In Subtitle C of the Act, EPA is directed to promulgate regulations that identify hazardous waste and to regulate generators and transporters of hazardous waste and facilities that treat, store, or dispose of hazardous waste.

Since 1980, EPA has issued a number of final regulations implementing these Congressional mandates. We have identified hazardous waste both by listing and by characteristic. We have issued standards for hazardous waste generators and transporters and for treatment, storage, and disposal facilities both during interim status and after permit issuance.

The Hazardous and Solid Waste Amendments of 1984 (HSWA), enacted on November 8, 1984, impose substantial new responsibilities on those who handle hazardous waste. In particular, the amendments focus on the land disposal of hazardous wastes. Recognizing that land disposal technology cannot guarantee perpetual containment of all waste constituents, Congress has added provisions designed to minimize reliance on land disposal. For example, Congress has imposed bans and limitations on placement of liquids in landfills. Congress has also added new technical requirements for land disposal facilities, such as requirements for double liners and leachate collection systems and additional corrective action requirements.

Section 201 of the HSWA, which amends section 3004 of RCRA (42 U.S.C. 6924), establishes a statutory presumption against land disposal of hazardous wastes. For purposes of this provision, "land disposal" includes any placement of hazardous waste in a landfill, surface impoundment, waste pile, injection well, land treatment facility, salt dome formation, salt bed formation, or underground mine or cave (section 3004(k)). (References have been added to direct the reader to the applicable statutory section.)

New sections 3004 (d), (e) and (g) provide that statutory bans on land disposal will go into effect on specific dates unless EPA rebuts the presumption by determining, for a particular waste, that one or more methods of land disposal are "protective of human health and the environment. These sections specify that EPA may not find that a land disposal method is "protective" unless a petitioner demonstrates to the Administrator "to a reasonable degree of certainty, that there will be no migration of hazardous constituents from the disposal unit or injection zone for as long as the waste remains hazardous." (Sections 3004 (d)(1), (e)(1), (g)(5).)

The statute establishes a second method of rebuttal by requiring EPA to set "levels or methods of treatment, if any, which substantially diminish the toxicity of the waste or substantially reduce the likelihood of migration of hazardous constituents from the waste so that short-term and long-term threats to human health and the environment are minimized." (Section 3004(m).)

Land disposal prohibitions are effective immediately upon promulgation unless the Agency sets another effective date based on the earliest date on which adequate alternative treatment, recovery, or disposal capacity which protects human health and the environment will be available. (Sections 3004 (h)(4), (h)(2).) However, these effective date variances may not exceed two years beyond the applicable statutory deadline.

In addition, two one-year case-by-case extensions may be granted when an applicant demonstrates to the Administrator that there is a binding contractual commitment to construct or otherwise provide alternative capacity but, due to circumstances beyond the control of the applicant, such alternative capacity cannot reasonably be made available by the effective date. (Section 3004(h)(3).)

Subsequent rulemakings by the Agency will further define the structure of the program, including requirements for filing petitions, bases for setting treatment requirements, and criteria for granting variances to, and extensions of, the effective dates for prohibitions. These subsequent rulings, as well as that being proposed today, will be published in a new Part of Title 40 of the Code of Federal Regulations—Part 268 Land Disposal Restrictions.

B. Statutory Ban Dates

The legislation sets forth a series of deadlines for Agency action. Each deadline prohibits further land disposal of a particular group of hazardous waste unless the Agency has set a treatment standard that "minimizes" threats to human health and the environment. After the deadlines, land disposal of the wastes affected will be allowed only if the Agency finds that a case-specific petition successfully demonstrates that there will be "no migration" of hazardous constituents from a disposal unit. These deadlines are explained in detail as follows.

1. Solvents and Dioxins

Effective November 8, 1986, (24 months from November 8, 1984, the date of enactment of the 1984 amendments) the statute prohibits further disposal (except with respect to underground injection into deep injection wells) for the following wastes:

Dioxin-containing hazardous wastes numbered F020, F021, F022, F023, F026, F027, and F028 and solvent-containing hazardous wastes numbered F001, F002, F003, F004, and F005. (Sections 3004 (e)(1), (e)(2).)

2. California List

Effective July 8, 1987 (32 months from November 8, 1984), the statute prohibits disposal (except with respect to underground injection into deep injection wells) for the following wastes, listed or identified under section 3001:[1]

a. Liquid hazardous wastes, including free liquids associated with any solid or sludge, containing free cyanides at concentrations greater than or equal to 1,000 mg/l.

b. Liquid hazardous wastes, including free liquids associated with any solid or sludge, containing the following metals (or elements) or compounds of these metals (or elements) of concentrations greater than or equal to those specified below:

(1) Arsenic and/or compounds (as As) 500 mg/l;

(2) Cadmium and/or compounds (as Cd) 100 mg/l;

(3) Chromium (VI and/or compounds (as Cr VI)) 500 mg/l;

(4) Lead and/or compounds (as Pb) 500 mg/l;

(5) Mercury and/or compounds (as Hg) 20 mg/l;

(6) Nickel and/or compounds (as Ni) 134 mg/l;

(7) Selenium and/or compounds (as Se) 20 mg/l;

(8) Thallium and/or compounds (as Tl) 130 mg/l;

c. Liquid hazardous wastes having a pH less than or equal to two (2.0).

d. Liquid hazardous wastes containing polychlorinated biphenyls at concentrations greater than or equal to 50 ppm.

e. Hazardous wastes containing halogenated organic compounds in total concentration greater than or equal to 1,000 mg/kg. (Sections 3004(d)(1), (d)(2).)

During the period ending November 8, 1988 (48 months from November 8, 1984), disposal of contaminated soil or debris resulting from a response action taken under section 104 or 106 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, or a corrective action required under RCRA, is not subject to any land disposal prohibition or treatment standard for solvent-and dioxin-containing wastes and wastes covered by the "California List." (Sections 3004(d)(3), (e)(3).)

Decisions on deep well injection of dioxin-containing hazardous wastes, solvent-containing hazardous wastes, and California List wastes must be made no later than 45 months from enactment. (Section 3004(f).)

3. Scheduled Wastes

Section 3004(g) of RCRA, HSWA, also requires the Agency to schedule, for land disposal prohibitions, all hazardous wastes listed, as of November 8, 1984, under section 3001 which are not referred to under the above headings, "Solvents and Dioxins" and "California List." EPA is required to develop and submit this schedule to Congress by November 8, 1986. EPA is publishing the proposed schedule today in order to provide the States, public, and industry the opportunity to provide comments on the methodology used in developing the schedule.

Section 3004(g)(2) requires that the schedule be based on a ranking of the listed hazardous wastes which considers their intrinsic hazard and their volume such that decisions regarding the land disposal of high volume hazardous wastes with high intrinsic hazard shall be scheduled first and low volume wastes with lower intrinsic hazard shall be scheduled last.

Section 3004(g)(4) requires EPA to make determinations on land disposal prohibitions within the following time frames:

1. At least one-third of all ranked hazardous wastes by August 8, 1988 (45 months from November 8, 1984).

2. At least two-thirds of all ranked hazardous wastes by June 8, 1989 (55 months from November 8, 1984).

3. For all remaining ranked hazardous wastes and for all hazardous wastes identified by characteristic under section 3001 by May 8, 1990 (66 months from November 8, 1984).

Although the statute establishes deadlines by which decisions on specific wastes must be made, EPA is not precluded from banning land disposal and requiring treatment for any scheduled wastes before the scheduled deadline. The Agency is also considering the possibility of making separate determinations for individual hazardous constituents in each waste. If so, the ban or treatment standard for a specific constituent could apply to all scheduled hazardous wastes containing that constituent. As a result, generators should be aware that the Agency might address a waste prior to the deadline assigned to it. EPA currently plans to solicit comment on its plan to set treatment standards on a constituent basis when it proposes a general decisionmaking framework for treatment standards and petitions.

4. Newly Listed Wastes

The land disposal prohibitions apply to all hazardous wastes identified or listed under section 3001 as of the date of enactment of the HSWA. EPA is required to make land disposal prohibition determinations for any hazardous waste identified or listed under section 3001 after November 8, 1984, within 6 months of the date of identification or listing. (Section 3004 (g)(4).)

The statute does not impose an automatic prohibition if EPA misses a deadline for any newly-listed waste.

C. Failure by EPA to Meet Statutory Deadlines

If EPA fails to set treatment standards for solvents and dioxins, and the "California List" by their respective statutory deadlines of November 8, 1986, and July 8, 1987, the statute states that such wastes are prohibited from land disposal (other than in injection wells, where the applicable statutory deadline is August 8, 1988).

If EPA fails to set treatment standards by the statutory deadline for any hazardous waste in the first one-third or second one-third of the schedule, such hazardous wastes may be disposed in a landfill or surface impoundment only if the facility is in compliance with the technology requirements set forth in section 3004(o) of RCRA. Moreover, prior to disposal, the generator must

[1] This list is based on regulations developed by the California Department of Health Services for hazardous waste land disposal restrictions in the state of California. Thus it has become known as the "California List."

certify to the Administrator that he has investigated the availability of treatment capacity and has determined that the use of such landfill or surface impoundment is the only practical alternative to treatment currently available to him. These conditions apply until EPA promulgates regulations making determinations for the waste concerned.

If EPA fails to set treatment standards for any of the scheduled listed wastes by May 8, 1990, such wastes are prohibited from land disposal unless EPA grants a case-by-case petition.

One reading of the statute suggests that an automatic prohibition is *not* imposed for hazardous wastes "identified" under section 3001 if EPA misses the May 8, 1990, deadline for setting treatment standards. "Identified" wastes are wastes defined as hazardous because they meet one or more of the general hazardous characteristic tests in 40 CFR 261.21–261.24, rather than wastes "listed" as hazardous in 40 CFR 261.30–261.33 because they contain one or more specified hazardous constituents. Section 3004(g)(5)(C) states, "if the Administrator fails to promulgate regulations or make a determination under paragraph (5) for any hazardous waste referred to in paragraph (1) wthin 66 months after the date of enactment of the Hazardous and Solid Waste Amendments of 1984, such hazardous wastes shall be prohibited from land disposal." Because section 3004(g)(1) refers to listed wastes only, and section 3004(g)(4)(C) refers to listed wastes and hazardous wastes "identified" under 3001, the Agency proposes to interpret the statute to impose an automatic prohibition for listed wastes but not for wastes identified under section 3001. Comments on this interpretation are invited by the EPA.

EPA believes that this interpretation will have little impact on the timing of prohibitions for "identified" wastes, because many of these wastes will be subject to other land disposal prohibitions or treatment standards prior to the 66-month deadline. Prior to the enactment of the HSWA, EPA had already promulgated conditional restrictions on land disposal of hazardous wastes "identified" by the characteristic of ignitability and reactivity (see 40 CFR 264.17, 265.17 and 265.314). In addition, EPA expects that many "identified" wastes will be covered by the "California List" described in section 2 above. These wastes will be automatically prohibited from land disposal if EPA fails to promulgate treatment regulations within 32 months of the date of enactment of the HSWA. Consequently, EPA believes that relatively few "identified" wastes will be governed by the 66-month deadline.

II. Proposed Methodology For Establishing Schedule

A. Schedule Methodology Proposed by EPA

1. Toxicity and Volume (TxV)

Section 3004(g)(2) requires the schedule to be based on a ranking of wastes such that high volume wastes with a high intrinsic hazard are ranked first and low volume wastes with a lower intrinsic hazard area ranked last. The Agency is proposing to rank listed hazardous wastes by multiplying a toxicity score (T) for each waste (representing the inherent toxicological properties of hazardous constituents in the waste) and a volume score (V) of each waste (representing the volume of the hazardous waste disposed of in or on the land).

Toxicity scores (T). EPA has selected toxicity as a measure of a hazardous waste's inherent hazard. Although the legislative history of the 1984 HSWA indicates that "the critical factors in detemining which wastes present the greatest hazards in land disposal are the toxicity of the waste and the volume of the waste being land disposed," the legislative history states that EPA may consider other factors in the areas of exposure (i.e., mobility and persistence) and data availability in establishing the schedule. While inequities may exist in excluding exposure factors, the lack of available environmental fate and effects data complicates further characterization of the inherent hazard of each listed hazardous waste by attempting to consider exposure. The Agency is, however, in the process of improving the exposure data base for the listed hazardous wastes and constituents through data collection and development. The statutory time frame for schedule development may preclude use of this refined data base in the scheduling rule.

Chronic toxicity data also vary widely in quantity and quality for each listed hazardous waste. However, the Agency has developed a procedure for objectively and systematically translating a variety of measures of chronic and acute toxicity into a toxicity score. This procedure, briefly described below, assigns a toxicity score, indicative of inherent hazard, to hazardous waste constituents identified as "P" or "U" wastes (i.e., commercial chemical products, when discarded, expressed as single constituents) and hazardous waste constituents listed in Appendix VII of 40 CFR Part 261.

Acute toxicity data (LD_{50}), sub-chronic and chronic toxicity data (ADI's,[2] and UCR's [3]) are the measures of toxicity used for scoring. Each hazardous waste constituent is assigned a score from 1–10 based on their toxic potency with the most toxic constituents receiving a score of 10 and the least toxic constituents receiving a score of 1.

In scoring, acute and chronic toxicities are not given equal weight. Historically, chronic effects resulting from continued exposure over long time periods have been used in evaluating environmental risks, e.g., drinking water regulations. However, there are still concerns over acute effects. These have been partially accommodated under RCRA by establishing a lower small quantity threshold for acute hazardous wastes. In this schedule, less weight is given in the scoring procedure to acute effects than chronic effects. For this reason, scoring is based primarily on the measures of chornic toxicity, which take the values of 1–9.

ADI or UCR values provide the basis for assigning scores from 1–9 to constituents, which roughly correspond to order of magnitude changes in their toxic potency. Using the ADI as a measure of chronic toxicity, a substance with a low value for an ADI (high potency) receives a high toxicity score. In contrast, a substance with a high UCR value (high potency) receives a high toxicity score. The chronic toxicity score does not consider the severity of effect.

The chronic toxicity scores of hazardous waste constituents judged to possess high acute toxicity are then adjusted upward by one unit according to the following scale:

For hazardous waste constituents with an LD_{50} [4] less than or equal to 50 mg/kg, add 1 to its chronic score.

For hazardous waste constituents with an LD_{50} greater than 50 mg/kg, add 0 to its chronic score.

The 50 mg/kg cutoff was used for addressing acute toxicity in the scoring procedure because EPA uses this level to differentiate between "acute hazardous wastes" (listed in 40 CFR

[2] ADI (acceptable daily intake) is the amount of toxic agent in mg/kg body weight/day (or in mg/day for a 70 kg person) which is not expected to result in any adverse effects after chronic exposure to the general population of humans, including sensitive subgroups.

[3] UCR (unit carcinogenic risk) is the upper limit on the lifetime probability that the carcinogen will cause cancer at a dose of 1 mg/kg body weight/day.

[4] LD_{50} represents the dose that is lethal to fifty percent of the animal test population following a single exposure.

261.33(e)) and "toxic wastes" (listed in 40 CFR 261.33(f)).

Constituent scores are converted to waste scores by assigning each hazardous waste the score of its most toxic constituent listed in Appendix VII to 40 CFR Part 261. Scores were not adjusted for concentration of constituents or for the percent of constituents in a waste because wide variations in constituents concentrations sometimes exist within a single waste code. Thus, for single chemical constituent wastes, the single constituent is scored (Ref. 1). In addition, the Agency based the schedule ranking on Appendix VII constituents in the waste because of limits in available data indicating which Appendix VIII constituents are found in the listed wastes.

Volume scores. The volume scores for the proposed schedule were developed from data from the "National Survey of Hazardous Waste Generators and Treatment, Storage and Disposal Facilities Regulated under RCRA in 1981" (Ref. 2). This survey provides the best readily available data base on the volumes of specific waste generation and disposal. The reported volume land disposed [5] for each hazardous waste identified by this survey was converted to 1–10 order of magnitude scale. Hazardous wastes for which no volume was reported were assigned a score of 1.[6] Basing the ranking on volume disposed rather than volume generated is consistent with the legislative history of the RCRA amendments (See Conference Report, H.R. Rep. No. 98–1133, 98th Congress, 2nd Session, at 88 (1984)). In addition, since we are concerned with wastes that are being land disposed rather than wastes that are treated; recycled, or recovered, it is more appropriate to base the ranking on a volume disposed score.

A more detailed explanation of the toxicity and volume scoring procedures is available upon request in a document titled "Documentation for the Development of Toxicity and Volume Scores, for the Purposes of Scheduling Hazardous Wastes." Requests for this document should be made by telephone to the RCRA Hotline (800) 424–9346 (toll free) or (202) 382–3000 or in writing to Docket Clerk, Office of Solid Waste (WH–562), U.S. Environmental Protection Agency, 401 M St., SW., Washington, D.C. 20460.

EPA recognizes the limits to the scoring procedures used for toxicity and volume. As a result, the Agency investigated the use of two additional factors, data availability and exposure, for the purpose of making adjustments to the ranking generated by TxV (toxicity multiplied by volume). This analysis confirmed that many of the hazardous waste constituents have been poorly studied and that extensive data gaps exist.

EPA did not use data availability as a criterion for making adjustments to the schedule ranking for the following reasons. Data gaps for many of the listed hazardous wastes are extensive and vary over a wide range of data points. In addition, the Agency has not yet developed a general framework for making pretreatment decisions. Consequently, the Agency is not yet able to specify the exact types of data it will need to set treatment standards. Thus, it was not possible to determine the significance of the data gaps for each listed hazardous waste.

Also, as noted earlier, EPA did not use exposure as a criterion for making adjustments to the schedule ranking. This is due to the extensive data gaps in the area of environmental fate and effects for the listed hazardous waste constituents. The data gaps negated an attempt by the Agency to generate an objective exposure score for all listed wastes to be used in conjunction with the toxicity and volume scores. The Agency currently plans to examine exposure in setting treatment standards and is undertaking efforts to collect and develop data in this area.

B. Alternative Methodologies for Schedule Development Examined by EPA

While the Agency is proposing a schedule based on a TxV ranking, several other methodologies for schedule development were examined and rejected. Each of these approaches is briefly described below.

1. Volume Approach

This method for ranking the listed hazardous wastes was the simplest approach examined by EPA. Each listed hazardous waste could be ranked either by its quantity generated or its quantity disposed such that the highest generated or disposed hazardous wastes would make up the first one-third of the schedule and hazardous wastes generated or disposed in the lowest quantities would make up the third one-third of the schedule. This approach, however, does not take into account the intrinsic hazard of the waste as required by section 3004(b)(2) and is, therefore, inadequate. As explained above, EPA has developed a method for characterizing the toxic potency of a waste. As a result, the volume approach was rejected by EPA.

2. Risk-Based Approaches

Three risk-based approaches for schedule development were examined by the Agency. These approaches included two modeling methodologies, the RCRA Risk-Cost Analysis Model (WET Model) and the Liner/Location Model, and a numerical methodology, the OSW Numerical Hazard Ranking Scheme.

The RCRA Risk-Cost Analysis Model (Wet Model) calculates relative risks of waste management practices considering various wastes, technology, and environment combinations. The model assesses waste streams in terms of the likelihood and severity of human exposure to their hazardous constituents by modeling constituent behavior in three media—air, surface water, and groundwater. The model also incorporates the mechanisms by which constituents are affected by the environment, such as hydrolysis, biodegradation, and adsorption.

The WET model can use waste volume data to estimate total steady state risks associated with current waste management practices. Risk is defined as

$R = H \times S \times [D_{total}]^K$ where

H = inherent hazard of the waste (probability of response per unit dose)

S = severity factor (effect occurring at minimum effective dose)

D_{total} = dose (total measure of human exposure)

K = factor used to define the relationship between any given dose and magnitude of the expected response (health effect)

For scheduling purposes, hazardous wastes could be ranked according to their relative risks such that hazardous wastes with the highest relative risks make up the first third of the schedule and hazardous wastes with the lowest relative risk make up the last third of the schedule.

The Liner/Location Risk and Cost Analysis Model classifies land disposal practices for hazardous wastes via waste/technology combinations in a range of environmental settings and calculates the relative risk for each

[5] Consistent with the statutory definition of land disposal in section 3004(k) volume land disposed is that quantity of a hazardous waste managed in deep injection wells, landfills, surface impoundments, land treatment facilities, and waste piles.

[6] The "National Survey of Hazardous Waste Generators and Treatment, Storage and Disposal Facilities Regulated under RCRA in 1981" included only one-third of all facilities in the United States. In addition, land disposal facilities were required to report the 10 highest volume wastes disposed of in their facility. Thus, some listed hazardous wastes were not reported to be land disposed in the survey. Most of these wastes are P and U wastes listed in 40 CFR 261.33 whose total volume disposed is a small percentage of all hazardous wastes disposed.

hazardous waste. The model integrates a series of submodels and algorithms that trace real time constituent releases from landfills and surface impoundments to their movement through the air and ground, then to resulting human exposures, and finally to the resultant human risk. To produce a risk estimate, the model uses the same risk estimation formula as the previously described WET model. Waste stream volume data can be integrated into the model to calculate the relative population risk posed by current waste management strategies. For scheduling purposes, hazardous wastes could be ranked according to their relative risk such that hazardous wastes with the highest relative risks make up the first third of the schedule and hazardous wastes with the lowest relative risks make up the last third.

The OSW Numerical Hazard Ranking Scheme defines a hazard index (H) for each hazardous waste. The hazard index is derived by combining a toxicity score (T) with an exposure score (E) such that $H=T\times E$. The toxicity scoring procedure is the same procedure used for the toxicity scoring in the toxicity multiplied by volume ($T\times V$) approach. The exposure scoring procedure generates an exposure score which represents the total dose that a human would receive at a specified distance from the point of release of a hazard waste. For scheduling purposes, the hazard indices generated for the listed wastes were ranked highest to lowest and then divided into thirds.

EPA rejected the use of the three risk-based approaches primarily because the data requirements are extensive and the approaches cannot be developed in time to meet the required deadline for the schedule rule.

C. Wastes Included in the Ranking

The ranking being proposed today includes all the wastes that were listed as hazardous in 40 CFR Part 261 as of November 8, 1984, except for the spent solvent wastes listed as EPA hazardous waste number F001, F002, F003, F004 and F005. Dioxin-containing hazardous wastes numbered F020, F021, F022, F023, F026, F027 and F028 listed on January 14, 1985 (50 FR 1978) are also excluded from the ranking. These two categories of waste are excluded because the statute requires decisions on them to be made within 24 months of enactment.

The proposed ranking does, however, contain wastes that may be covered by the "California List." There are several reasons for their inclusion. First, the "California List" is expressed in the RCRA amendments in terms of concentration of constituents, rather than as specific EPA hazardous waste codes. Translating the generic categories of the "California List" into EPA wastes codes is very difficult. This is because a specific waste code may apply to a number of different wastes which vary significantly in concentration of hazardous constituents. At this time, the Agency anticipates that its rules on the "California List" will follow the same format as the provision in the RCRA amendments, that is, expressed as a concentration of constituents, rather than as EPA waste codes.

A second reason for including wastes potentially covered by the "California List" on the ranking is that the "California List" may address some, but not necessarily all, of the constituents of concern in a waste. Wastes which contain "California List" constituents in concentrations lower than the levels set by the statute (or set by the Agency when it reviews the California List) might contain other constituents that threaten human health and the environment. Consequently, the Agency should schedule these wastes for bans or treatment standards related to these other constituents.

Lastly, wastes identified as hazardous based on a characteristic alone (i.e., corrosivity, reactivity, ignitability and EP Toxicity) are not included in the proposed ranking. The RCRA amendments specify that these wastes will be reviewed in the last third.

D. Schedule Interpretation

When assessing the schedule it is important to recognize that the method used to develop the schedule ranking is not a risk ranking or a treatment level because admittedly important exposure factors have not been considered. In addition, constituent concentrations have not been considered, nor are constituents that may be in the waste but were not the basis for listing the waste. Rather, the schedule is the Agency's attempt to develop an inherent hazard ranking for all wastes listed under section 3001 using the best data currently available. Therefore, the schedule should not be taken as an indication of Agency decisions on treatment levels because, in making those decisions, additional data will be considered.

E. Request for Comments and Data

The Agency is today proposing and requesting comments on the methodology being used to schedule land disposal prohibition determinations. In addition, the Agency strongly encourages the submission of any existing unpublished data or information on plans for future data development in the following areas:

- Toxicological properties of hazardous constituents;
- Environmental fate and effects data for hazardous constituents;
- Waste composition data, including concentration data for hazardous constituents in specific hazardous wastes;
- Volume data, both quantities generated and land disposed for a specific hazardous waste;
- Analogs for constituent where data are lacking;
- Data on small quantity generator (SQG) wastes.

This data will help EPA make the best possible decisions on treatment standards and petitions.

III. Regulatory Impact

A. Regulatory Impact

Executive Order 12291 requires that the regulatory impact of potential Agency actions be evaluated as part of the process of developing regulations. Such an assessment consists of:

- A description of the potential benefits of the rule, including any beneficial effects that cannot be quantified in monetary terms (section 3(d)(2)); and
- A description of the potential costs of the rule, including any adverse effects that cannot be qualified in monetary terms (section 3(d)(3)).

In addition, Executive Order 12291 requires that regulatory agencies prepare a Regulatory Impact Analysis in connection with major rules (section 3). Major rules are defined in section 1(b) as those which are likely to result in:

1. An annual effect on the economy of $100 million or more;
2. A major increase in costs or prices for consumers or individual industries; or
3. Significant adverse effects on competition, employment, investment, productivity, innovation, or international trade.

However, today's proposal merely establishes the timing for regulatory decisions on listed hazardous wastes not designated as solvents, dioxins, or California wastes by the statute. The schedule does not impose any regulatory requirements, unless the Agency fails to make decisions as Congress has mandated. It will be these decisions that define the impacts on regulated parties. We will evaluate the risks, costs, and impacts of the later proposals that impose these restrictions.

(We recognize that the schedule will require some parties to change their

land disposal practices sooner, and some later. The schedule, however, does not define the types of changes required, merely the timing.)

This proposed amendment was submitted to the Office of Management and Budget (OMB) for review as required by Executive Order 12291.

B. Regulatory Flexibility Act

Pursuant to the Regulatory Flexibility Act, 5, U.S.C. 601 *et seq.*, whenever an agency is required to publish a general notice of rulemaking for any proposed or final rule, it must prepare and make available for public comment a Regulatory Flexibility Analysis which describes the impact of the rule on small entities (i.e., small business, small organizations, and small governmental jurisdictions). The Administrator may certify, however, that the rule will not have a significant economic impact on a substantial number of small entities. Since, as explained above, this schedule is only a preliminary step that has no direct regulatory impact, I hereby certify that this proposed regulation will not have a significant economic impact on a substantial number of small entities. This proposed regulation therefore does not require a Regulatory Flexibility Analysis.

C. Paperwork Reduction Act

Section 3004(g)(3) of RCRA as amended by the HSWA exempts the schedule from the Paperwork Reduction Act of 1980, 44 U.S.C. 3501 *et seq.* Development of the schedule does not, in any event, contain any information collection requirements as described by provisions of the Paperwork Reduction Act.

D. Impact on Authorized States

This proposal has no immediate impact on authorized States as it merely establishes EPA's schedule for land disposal prohibitions and treatment determinations. The impact on authorized States will be addressed when these determinations are made.

E. References

(1) "Documentation for the Development of Toxicity and Volume Scores for the Purposes of Scheduling Hazardous Wastes," Report prepared for Office of Solid Waste, USEPA, by Environ Corporation, 1985.

(2) "USEPA. 1984. National Survey of Hazardous Waste Generators and Treatment, Storage and Disposal Facilities Regulated Under RCRA in 1981. Office of Solid Waste and Emergency Response. April (EPA 530/SW-84-005).

List of Subjects in 40 CFR Part 268

Environmental protection, Hazardous materials, Waste treatment and disposal.

Dated: May 18, 1985.

Lee M. Thomas,

Administrator.

Chapter I of Title 40 is proposed to be amended by adding new Part 268 to read as follows:

PART 268—LAND DISPOSAL RESTRICTIONS

Subpart A—[Reserved]

Subpart B—Schedule for Land Disposal Prohibition and Establishment of Treatment Standards

Sec.

268.10 Identification of wastes to be evaluated by August 8, 1988.
268.11 Identification of wastes to be evaluated by June 8, 1989.
268.12 Identification of wastes to be evaluated by May 8, 1990.
268.13 Schedule for wastes identified or listed after November 8, 1984.

Authority: Secs. 1106, 2002(a), 3001 and 3004 of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act of 1976, as amended [42 U.S.C. 6905, 6912(a), 6921, and 6924].

Subpart A—[Reserved]

Subpart B—Schedule for Land Disposal Prohibition and Establishment of Treatment Standards

§ 268.10 Identification of wastes to be evaluated by August 8, 1988.

EPA will take action under sections 3004(g)(5) and 3004(m), of the Resource Conservation and Recovery Act, by August 8, 1988, for the following wastes (for ease of understanding the wastes have been listed by the section of 40 CFR Part 261 under which they were listed):

§ 261.31 Wastes

F006—Wastewater treatment sludges from electroplating operations except from the following processes: (1) Sulfuric acid anodizing of aluminum; (2) tin plating on carbon steel; (3) zinc plating (segregated basis) on carbon steel; (4) aluminum or zinc-caluminum plating on carbon steel; (5) cleaning/stripping associated with tin, zinc and aluminum plating on carbon steel; and (6) chemical etching and milling of aluminum.

F007—Spent cyanide plating bath solutions from electroplating operations.

F008—Plating bath sludges from the bottom of plating baths from electroplating operations where cyanides are used in the process.

F009—Spent stripping and cleaning bath solutions from electroplating operations where cyanides are used in the process.

F019—Wastewater treatment sludges from the chemical conversion coating of aluminum.

§ 261.32 Wastes

K001—Bottom sediment sludge from the treatment of wastewaters from wood preserving processes that use creosote and/or pentachlorophenol.

K004—Wastewater treatment sludge from the production of zinc yellow pigments.

K008—Oven residue from the production of chrome oxide green pigments.

K011—Bottom stream from the wastewater stripper in the production of acrylonitrile.

K013—Bottom stream from the acetonitrile column in the production of acrylonitrile.

K014—Bottoms from the acetonitrile purification column in the production of acrylonitrile.

K015—Still bottoms from the distillation of benzyl chloride.

K016—Heavy ends or distillation residues from the production of carbon tetrachloride.

K017—Heavy ends (still bottoms) from the purification column in the production of epichlorohydrin.

K018—Heavy ends from the fractionation column in ethyl chloride production.

K020—Heavy ends from the distillation of vinyl chloride in vinyl chloride monomer production.

K021—Aqueous spent antimony catalyst waste from fluoromethanes production.

K022—Distillation bottom tars from the production of phenol/acetone from cumane.

K024—Distillation bottoms from the production of phthalic anhydride from naphthalene.

K030—Column bottoms or heavy ends from the combined production of trichloroethylene and perchloroethylene.

K031—By-products salts generated in the production of MSMA and cacodylic acid.

K035—Wastewater treatment sludges generated in the production of creosote.

K036—Still bottoms from toluene reclamation distillation in the production of disulfoton.

K037—Wastewater treatment sludge from the production of disulfoton.

K044—Wastewater treatment sludges from the manufacturing and processing of explosives.
K045—Spent carbon from the treatment of wastewater containing explosives.
K046—Wastewater treatment sludges from the manufacturing, formulation and loading of lead-based initiating compounds.
K047—Pink/red water from TNT operations.
K048—Dissolved air flotation (DAF) float from the petroleum refining industry.
K049—Stop oil emulsion solids from the petroleum refining industry.
K050—Heat exchange bundle cleaning sludge from the petroleum refining industry.
K051—API separator sludge from the petroleum refining industry.
K052—Tank bottoms (leaded) from the petroleum refining industry.
K060—Ammonia still lime sludge from coking operations.
K061—Emission control dust/sludge from the primary production of steel in electric furnaces.
K062—Spent pickle liquor from steel finishing operations in chlorine production.
K069—Emission control dust/sludge from secondary lead smelting.
K071—Brine purification muds from the mercury cells process in chlorine production, where separately prepurified brine is not used.
K073—Chlorinated hydrocarbon waste from the purification step of the diaphragm cell process using graphite anodes.
K083—Distillation bottoms from aniline production.
K084—Wastewater treatment sludges generated during the production of veterinary pharmaceuticals from arsenic or organo-arsenic compounds.
K085—Distillation or fractionation column bottoms from the production of chlorobenzenes.
K086—Solvent washes and sludges; caustic washes and sludges, or water washes and sludges from cleaning tubs and equipment used in the formulation of ink from pigments, driers, soaps, and stabilizers containing chromium and lead.
K087—Decanter tank tar sludge from coking operations.
K099—Untreated wastewater from the production of 2,4–D.
K101—Distillation tar residues from the distillation of aniline-based compounds in the production of veterinary pharmaceuticals from arsenic or organo-arsenic compounds.
K102—Residue from the use of activated carbon for decolorization in the production of veterinary pharmaceuticals from arsenic or organo-arsenic compounds.
K103—Process residues from aniline extraction from the production of aniline.
K104—Combined wastewater streams generated from nitrobenzene/aniline production.
K106—Wastewater treatment sludge from the mercury cell process in chlorine production.

§ 261.33(e) Wastes

P001—Warfarin, when present at concentration greater than 0.3%
P004—Aldrin
P005—Allyl alcohol
P010—Arsenic acid
P011—Arsenic (V) oxide
P012—Arsenic (III) oxide
P015—Beryllium dust
P016—Bis-(chloromethyl) ether
P018—Brucine
P020—Dinoseb
P030—Soluble cyanide salts not elsewhere specified
P036—Dichlorophenylarsine
P037—Dieldrin
P039—Disulfoton
P041—Diethyl-p-nitrophenyl phosphate
P048—2,4-Dinitrophenol
P050—Endosulfan
P058—Fluoracetic acid, sodium salt
P059—Heptachlor
P063—Hydrogen cyanide
P068—Methyl Hydrazine
P069—Methyllactonitrile
P070—Aldicarb
P071—Methyl parathion
P081—Nitroglycerine
P082—N-Nitrosodimethylamine
P084—N-Nitrosomethylvinylamine
P087—Osmium tetraoxide
P089—Parathion
P092—Phenylmercuric acetate
P094—Phorate
P097—Famphur
P102—Propargyl alcohol
P105—Sodium azide
P108—Strychnine and salts
P110—Tetraethyl lead
P115—Thallium (I) sulfate
P120—Vanadium pentoxide
P122—Zinc phosphide, when present at concentrations greater than 10%
P123—Toxaphene

§ 261.33(f) Wastes

U007—Acrylamide
U009—Acrylonitrile
U010—Mitomycin C
U012—Aniline
U016—Benz(c)acridine
U018—Benz(a)anthracene
U019—Benzene
U022—Benzo(a)pyrene
U029—Methyl bromide
U031—n-Butanol
U036—Chlordane, technical
U037—Chlorobenzene
U041—n-Chloro-2,3-epoxypropane
U043—Vinyl chloride
U044—Chloroform
U046—Chloromethyl methyl ether
U050—Chrysene
U051—Creosote
U053—Crotonaldehyde
U061—DDT
U063—Dibenz o (a, h) antracene
U064—1,2:7,8 Dibenzopyrene
U066—Dibromo-3-chloropropane 1,2–
U067—Ethylene dibromide
U074—1, 4-Dichloro-2-butene
U077—Ethane, 1,2-dichloro-
U078—Dichloroethylene, 1,1-
U086—N,N Diethylhydrazine
U089—Diethylstilbestrol
U103—Dimethyl sulfate
U105—2,4-Dinitrotoluene
U108—Dioxane, 1,4-
U115—Ethylene oxide
U122—Formaldehyde
U124—Furan
U129—Lindane
U130—Hexachlorocyclopentadiene
U133—Hydrazine
U134—Hydrofluoric acid
U137—Indeno(1,2,3-cd)pyrene
U151—Mercury
U154—Methanol
U155—Methapyrilene
U157—3-Methylcholanthrene
U158—4,4-Methylene-bis-(2-chloroaniline)
U159—Methyl ethyl ketone
U171—Nitropropane, 2-
U177—N-Nitroso-N-methylurea
U180—N-Nitrosopyrrolidine
U185—Pentachloronitrobenzene
U188—Phenol
U192—Pronamide
U200—Reserpine
U209—Tetrachloroethane, 1,1,2,2-
U210—Tetrachloroethylene
U211—Carbon tetrachloride
U219—Thiourea
U220—Toluene
U221—Toluenediamine
U223—Toluene diisocyanate
U226—Methylchloroform
U227—Trichloroethane, 1,1,2-
U228—Trichloroethylene
U231—Trichlorophenol, 2,4,6-
U237—Uracil mustard
U238—Ethyl carbamate
U248—Warfarin, when present at concentrations of 0.3% or less
U249—Zinc phosphide, when present at concentrations of 10% or less

§ 268.11 Identification of wastes to be evaluated by June 8, 1989.

EPA will take actions under sections 3004(g)(5) and 3004(m) of the Resource Conservation and Recovery Act, by June 8, 1989, for the following wastes (for ease of understanding the wastes have

been listed by the section of 40 CFR Part 261 under which they were listed):

§ 261.31 Wastes

F010—Quenching bath sludge from oil baths from metal heat treating operations where cyanides are used in the process.
F011—Spent cyanide solutions from salt bath pot cleaning from metal heat treating operations.
F012—Quenching wastewater treatment sludges from metal heat operations where cyanides are used in the process.
F024—Wastes including but not limited to, distillation residues, heavy ends, tars and reactor clean-out wastes from the production of clorinated aliphatic hydrocarbons, having carbon content from one to five, utilizing free radical catalyzed processes. (This listing does not include light ends, spent filters and filter aids, spent dessicants, wastewater, wastewater treatment sludges, spent catalysts, and wastes listed in §261.32.)

§ 261.32 Wastes

K009—Distillation bottoms from the production of acetaldehyde from ethylene.
K010—Distillation side cuts from the production of acetaldehyde from ethylene.
K019—Heavy ends from the distillation of ethylene dichloride in ethylene dichloride production.
K025—Distillation bottoms from the production of nitrobenzene by the nitration of benzene.
K027—Centrifuge and distillation residues from toluene diisocyanate production.
K028—Spent catalyst from the hydrochlorinator reactor in the production of 1,1,1-trichloroethane.
K029—Waste from the product steam stripper in the production of 1,1,1-trichloroethane.
K038—Wastewater from the washing and stripping of phorate production.
K039—Filter cake from the filtration of diethylphosphoro-dithioic acid in the production of phorate.
K040—Wastewater treatment sludge from the production of phorate.
K041—Wastewater treatment sludge from the production of toxaphene.
K042—Heavy ends or distillation residues from the distillation of tetrachlorobenzene in the production of 2,4,5-T.
K043—2,6-Dichlorophenol waste from the production of 2,4,-D.
K095—Distillation bottoms from the production of 1,1,1-trichloroethane.
K096—Heavy ends from the heavy ends column from the production of 1,1,1-trichloroethane.
K097—Vacuum stripper discharge from the chlordane chlorinator in the production of chlordane.
K098—Untreated process wastewater from the production of toxaphene.
K105—Separated aqueous stream from the reactor product washing step in the production of chlorobenzenes.

§ 261.33(e) Wastes

P002—1-Acetyl-2-thiourea
P003—Acrolein
P007—5-(Aminoethyl)-3-isoxazolol
P008—4-Aminopryidine
P014—Thiophenol
P026—1-(o-Chlorophenyl)thiourea
P027—Propanenitrile, 3-chloro
P029—Copper cyanides
P040—o,o-Diethyl o-pyrazinyl phosphorothioate
P043—Diisopropyl fluorophosphate
P044—Dimethoate
P049—2,4-Dithiobiuret
P054—Aziridine
P057—Fluoracetamide
P060—Isodrin
P062—Hexaethyl-tetra-phosphate
P066—Methomyl
P067—2-methylaziridine
P072—P-Nitroaniline
P074—Nickel cyanide
P085—Octamethylpyrophosphoramide
P098—Potassium cyanide
P104—Silver cyanide
P106—Sodium cyanide
P107—Strontium sulfide
P111—Tetraethylpyrophosphate
P112—Tetranitromethane
P113—Thallic oxide
P114—Thallium (I) selenite

§ 261.33(f) Wastes

U002—Acetone
U003—Acetonitrile
U005—o-Acetytlaminofluorene
U008—Acrylic acid
U011—Amitrole
U014—Auramine
U015—Azaserine
U020—Benzenesulfonyl chloride
U021—Benzidine
U023—Benzotrichloride
U025—Dichloroethyl ether
U026—Chlornaphazine
U028—Bis-(2-ethylhexyl)phthalate
U032—Calcium chromate
U035—Chlorambucil
U047—Beta-chloronaphthalene
U049—4-Chloro-o-toluidine, hydrochloride
U057—Cyclohexanone
U058—Cyclophosphamide
U059—Daunomycin
U060—DDD
U062—Diallate
U070—o-Dichlorobenzene
U073—Dichlorobenzidene, 3,3-
U080—Methylene chloride
U083—Dichloropropane, 1,2-
U092—Dimethylamine
U093—Dimethylaminoazobenzene
U094—Dimethylbenz(a)anthracene, 7,12-
U095—Dimethylbenzidine, 3,3'-
U097—Dimethylcarbamoyl chloride
U098—Dimethylhydrazine, 1,1-
U099—Dimethylhydrazine, 1,2-
U101—Dimethylphenol, 2,4-
U106—Dinitrotoluene, 2,6-
U107—Di-n-octyl phthalate
U109—1,2,-Diphenylhydrazine
U110—Dipropylamine
U111—Di-N-Propylnitrosamine
U114—Ethylenebis-(dithiocarbamic acid)
U116—Ethylene thiourea
U119—Ethyl methanesulfonate
U127—Hexachlorobenzene
U128—Hexachlorobutadiene
U131—Hexachloroethane
U135—Hydrogen sulfide
U138—Methyl iodide
U140—Isobutyl alcohol
U142—Kepone
U143—Lasiocarpine
U144—Lead acetate
U146—Lead subacetate
U147—Maleic anhydride
U149—Malononitrile
U150—Melphalan
U161—Methyl isobutyl ketone
U162—Methyl methacrylate
U163—N-Methyl-N-nitro-N-nitrosoguanidine
U164—Methylthiouracil
U165—Naphthalene
U168—Naphthylamine, 2-
U169—Nitrobenzene
U170—p-Nitrophenol
U172—N-Nitroso-di-n-butylamine
U173—N-Nitroso-di-ethanolamine
U174—N-Nitroso-di-ethylamine
U176—N-Nitroso-N-ethylurea
U178—N-Nitroso-N-methylurethane
U179—N-Nitrosopiperidine
U189—Phosphorus sulfide
U193—1, 3-Propane sultone
U196—Pyridine
U203—Safrole
U205—Selenium Disulfide
U206—Streptozotocin
U208—Tetrachloroethane, 1,1,1,2-
U213—Tetrahydrofuran
U214—Thallium (I) acetate
U215—Thallium (I) carbonate
U216—Thallium (I) chloride
U217—Thallium (I) nitrate
U218—Thioacetamide
U232—Trichlorophenoxyacetic acid, 2,4,5-
U233—Silvex
U235—Tris (2,3-Dibromopropyl) phosphate
U239—Xylene
U242—Pentachlorophenol

U244—Thiram

§ 268.12 Identification of wastes to be evaluated by May 8, 1990.

EPA will take actions under sections 3004(g)(5) and 3004(m) of the Resource Conservation and Recovery Act, by May 8, 1990, for the following wastes (for ease of understanding the wastes have been listed by the section of 40 CFR Part 261 under which they were listed):

§ 261.32 Wastes

K002—Wastewater treatment sludge from the production of chrome yellow and orange pigments.
K003—Wastewater treatment sludge from the production of molybdate orange pigments.
K005—Wastewater treatment sludge from the production of chrome green pigments.
K006—Wastewater treatment sludge from the production of chrome oxide green pigments (anhydrous and hydrated).
K007—Wastewater treatment sludge from the production of iron blue pigments.
K023—Distillation light ends from the production of phthalic anhydride from naphthalene.
K026—Stripping still tails from the production of methyl ethyl pyridines.
K032—Wastewater treatment sludge from the production of chlordane.
K033—Wastewater and scrub water from the chlorination of cyclopentadiene in the production of chlordane.
K034—Filter solids from the hexachlorocyclopentadiene in the production of chlordane.
K093—Distillation lights ends from the production of phthalic anhydride from ortho-xylene.
K094—Distillation bottoms from the production of phthalic anhydride from ortho-xylene.
K100—Waste leaching solution from acid leaching of emission control dust/sludge from secondary lead smelting.

§ 261.33(e) Wastes

P006—Aluminum phosphide
P009—Ammonium picrate
P013—Barium cyanide
P017—Bromoacetone
P021—Calcium cyanide
P022—Carbon disulfide
P023—Chloroacetaldehyde
P024—p-Chloroaniline
P028—Benzyl chloride
P031—Cyanogen
P033—Cyanogen chloride
P034—4,6-Dinitro-o-cyclohexylphenol
P038—Diethylarsine
P042—Epinephrine
P045—Thiofanox
P046—Alpha, alpha-Dimethylphenethylamine
P047—4,6-Dinitro-o-cresol and salts
P051—Endrin
P056—Fluorine
P064—Methyl isocyanate
P065—Mercury fulminate
P073—Nickel carbonyl
P075—Nicotine and salts
P076—Nitric oxide
P077—p-Nitroaniline
P078—Nitrogen dioxide
P088—Endothall
P093—N-Phenylthiourea
P095—Phosgene
P096—Phosphine
P099—Potassium silver cyanide
P101—Propanenitrile
P103—Selenourea
P109—Tetraethyldithiopyrophosphate
P116—Thiosemicarbazide
P118—Trichloromethanethiol
P119—Ammonium vanadate
P121—Zinc cyanide

§ 261.33(f) Wastes

U001—Acetaldehyde
U004—Acetophenone
U006—Acetyl chloride
U017—Benzal chloride
U024—Bis (2-chloroethoxy)methane
U027—Bis(2-chloroisopropyl)ether
U030—Benzene, 1-bromo-4-phenoxy
U033—Carbonyl fluoride
U034—Chloral
U038—Ethyl-4-4'-dichlorobenzilate
U039—4-Chloro-m-cresol
U042—Vinyl ether, 2-chloroethyl
U045—Methyl chloride
U048—O-Chlorophenol
U052—Cresols
U055—Cumene
U056—Cyclohexane
U068—Methane, dibromo
U069—Dibutyl phthalate
U071—m-Dichlorobenzene
U072—p-Dichlorobenzene
U075—Dichlorodifluoromethane
U076—Ethane, 1,1-dichloro-
U079—1,2-Dichloroethylene
U081—2,4-Dichlorophenol
U082—2,6-Dichlorophenol
U084—1,3-Dichloropropene
U085—2,2'-Bioxirane
U087—0,0-Diethyl-S-methyl-dithiophosphate
U088—Diethyl phthalate
U090—Dihydrosafrole
U091—3,3',-Dimethoxybenzidine
U096—alphe,alpha-Dimethylbenzylhydroxyperoxide
U102—Dimethyl phthalate
U112—Ethyl acetate
U113—Ethyl acrylate
U117—Ethyl ether
U118—Ethylmethacrylate
U120—Fluoranthene
U121—Trichloromonofluoromethane
U123—Formic acid
U125—Furfural
U126—Glycidylaldehyde
U132—Hexachlorophene
U136—Cacodylic acid
U139—Iron dextran
U141—Isosafrole
U145—Lead phosphate
U148—Maleic hydrazide
U152—Methacrylonitrile
U153—Methanethiol
U156—Methly chlorocarbonate
U160—Methyl ethyl ketone peroxide
U166—1,4-Naphthaquinone
U167—1-Naphthylamine
U181—5-Nitro-o-toluidine
U182—Paraldehyde
U183—Pentachlorobenzene
U184—Pentachloroethane
U186—1,3-Pentadiene
U187—Phenacetin
U190—Phthalic anhydride
U191—2-Picoline
U194—1-Propanamine
U197—p-Benzoquinone
U201—Resorcinal
U202—Saccharin and salts
U204—Selenious acid
U207—1,2,4,5-tetrachlorobenzene
U212—2,3,4,6-Tetrachlorophenol
U222—O-Toluidine hydrochloride
U225—Bromoform
U230—2,4,5-Trichlorophenol
U234—Sym-Trinitrobenzene
U236—Trypan blue
U240—2,4-D, salts and esters
U243—Hexachloropropene
U246—Cyanogen bromide
U247—Methoxychlor

§ 268.13 Schedule for wastes identified or listed after November 8, 1984.

In the case of any hazardous waste identified or listed under section 3001 after November 8, 1984, the Administrator shall make a land disposal prohibition determination in accordance with the standards set forth in section 3004(g)(5), of the Resource Conservation and Recovery Act, within 6 months after the date of identification or listing.

[FR Doc. 85-13010 Filed 5-30-85; 8:45 am]
BILLING CODE 6560-50-M

federal register

Friday
May 31, 1985

Part IV

Department of Agriculture

Agricultural Marketing Service

7 CFR Part 910

Lemons Grown in California and Arizona; Limitation of Handling; Final Rule

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 910

[Lemon Regulation 518]

Lemons Grown in California and Arizona; Limitation of Handling

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This regulation establishes the quantity of fresh California-Arizona lemons that may be shipped to market at 325,000 cartons during the period June 2–8, 1985. Such action is needed to provide for orderly marketing of fresh lemons for the period due to the marketing situation confronting the lemon industry.

DATES: Effective for the period June 2–8, 1985.

FOR FURTHER INFORMATION CONTACT: William J. Doyle, Chief, Fruit Branch, F&V, AMS, USDA, Washington, D.C. 20250, telephone 202–447–5975.

SUPPLEMENTARY INFORMATION: This final rule has been reviewed under Secretary's Memorandum 1512–1 and Executive Order 12291, and has been designated a "non-major" rule. William T. Manley, Deputy Administrator, Agricultural Marketing Service, has certified that this action will not have a significant economic impact on a substantial number of small entities.

This final rule is issued under Marketing No. 910, as amended (7 CFR Part 910) regulating the handling of lemons grown in California and Arizona. The order is effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674). The action is based upon recommendations and information submitted by the Lemon Administrative Committee and upon other available information. It is found that this action will tend to effectuate the declared policy of the act.

This action is consistent with the marketing policy currently in effect. The committee met publicly on May 28, 1985, at Los Angeles, California, to consider the current and prospective conditions of supply and demand and recommended a quantity of lemons deemed advisable to be handled during the specified week. The committee reports that lemon demand continues good for sizes 140's and smaller, and easier on the larger sizes.

It is further found that it is impracticable and contrary to the public interest to give preliminary notice, engage in public rulemaking, and postpone the effective date until 30 days after publication in the **Federal Register** (5 U.S.C. 553), because of insufficient time between the date when information became available upon which this regulation is based and the effective date necessary to effectuate the declared purposes of the act. Interested persons were given an opportunity to submit information and views on the regulation at an open meeting. It is necessary to effectuate the declared purposes of the act to make these regulatory provisions effective as specified, and handlers have been apprised of such provisions and the effective time.

List of Subjects in 7 CFR Part 910

Marketing Agreements and Orders, California, Arizona, Lemons.

1. The authority citation for 7 CFR Part 910 continues to read as follows:

Authority: Secs. 1–19, 48 Stat. 31, as amended; 7 U.S.C. 601–674.

2. New § 910.818 is added to read as follows:

§ 910.818 Lemon Regulation 518.

The quantity of lemons grown in California and Arizona which may be handled during the period June 2, 1985, through June 8, 1985, is established at 325,000 cartons.

Dated: May 29, 1985.

Thomas R. Clark,

Acting Director, Fruit and Vegetable Division, Agricultural Marketing Service.

[FR Doc. 85–13299 Filed 5–30–85; 11:34 am]

BILLING CODE 3410–02–M

federal register

Friday
May 31, 1985

Part V

Department of Agriculture

Agricultural Stabilization and Conservation Service

Feed Grain Donations for Indian Reservations in Montana and North Dakota

Part V

Department of Agriculture

Agricultural Statistics and Conservation Service

Food Grain Statistics for Illinois
Conservation Districts and Trends
Illinois

DEPARTMENT OF AGRICULTURE

Agricultural Stabilization and Conservation Service

Feed Grain Donations for the Blackfeet Indian Reservation in Montana

Pursuant to the authority set forth in Section 407 of the Agricultural Act of 1949, as amended (7 U.S.C. 1427) and Executive Order 11336, I have determined that:

The termination date for the Notice published in the **Federal Register** (49 FR 48079) on December 10, 1984, shall be extended through June 30, 1985, because of continued drought conditions, shortage of livestock grazing and hay production.

Signed at Washington, D.C., May 29, 1985.

Everett Rank,

Administrator, Agricultural Stabilization and Conservation Service.

[FR Doc. 85-13324 Filed 5-30-85; 11:56 am]

BILLING CODE 4310-05-M

Feed Grain Donations for the Fort Belknap Indian Reservation in Montana

Pursuant to the authority set forth in Section 407 of the Agricultural Act of 1949, as amended (7 U.S.C. 1427) and Executive Order 11336, I have determined that:

The termination date for the Notice published in the **Federal Register** (49 FR 48079) on December 10, 1984, shall be extended through June 30, 1985, because of continued drought conditions, shortage of livestock grazing and hay production.

Signed at Washington, D.C., May 29, 1985.

Everett Rank,

Administrator, Agricultural Stabilization and Conservation Service.

[FR Doc. 85-13327 Filed 5-30-85; 11:56 am]

BILLING CODE 3410-05-M

Feed Grain Donations for the Fort Berthold Indian Reservation in North Dakota

Pursuant to the authority set forth in Section 407 of the Agricultural Act of 1949, as amended (7 U.S.C. 1427) and Executive Order 11336, I have determined that:

The termination date for the Notice published in the **Federal Register** (49 FR 50215) on December 27, 1984, shall be extended through June 30, 1985, because of continued drought conditions, shortage of livestock grazing and hay production.

Signed at Washington, D.C., May 29, 1985.

Everett Rank

Administrator, Agricultural Stabilization and Conservation Service.

[FR Doc. 85-13328 Filed 5-30-85; 11:26 am]

BILLING CODE 3410-05-M

Feed Grain Donations for the Fort Peck Indian Reservation in Montana

Pursuant to the authority set forth in Section 407 of the Agricultural Act of 1949, as amended (7 U.S.C. 1427) and Executive Order 11336, I have determined that:

The termination date for the Notice published in the **Federal register** (49 FR 48079) on December 10, 1984, shall be extended through June 30, 1985, because of continued drought conditions, shortage of livestock grazing and hay production.

Signed at Washington, D.C., May 29, 1985.

Everett Rank,

Administrator, Agricultural Stabilization and Conservation Service.

[FR Doc. 85-13325 Filed 5-30-85; 11:56 am]

BILLING CODE 3410-05-M

Feed Grain Donations for the Rocky Boys Indian Reservation in Montana

Pursuant to the authority set forth in Section 407 of the Agricultural Act of 1949, as amended (7 U.S.C. 1427) and Executive Order 11336, I have determined that:

The termination date for the Notice published in the **Federal Register** (49 FR 48079) on December 10, 1984, shall be extended through June 30, 1985, because of continued drought conditions, shortage of livestock grazing and hay production.

Signed at Washington, D.C., May 29, 1985.

Everett Rank,

Administrator, Agricultural Stabilization and Conservation Service.

[FR Doc. 85-13326 Filed 5-30-85; 11:56 am]

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Federal Register

Vol. 50, No. 105

Friday, May 31, 1985

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Other Services

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FEDERAL REGISTER PAGES AND DATES, MAY

18445-18626.....1
18627-18848.....2
18849-18984.....3
18985-19160.....6
19161-19304.....7
19305-19516.....8
19517-19666.....9
19667-19896.....10
19897-20084.....13
20085-20190.....14
20191-20382.....15
20383-20542.....16
20543-20740.....17
20741-20880.....20
20881-21030.....21
21031-21228.....22
21229-21416.....23
21417-21580.....24
21581-21792.....28
21793-22966.....29
22967-23104.....30
23105-23266.....31

CFR PARTS AFFECTED DURING MAY

At the end of each month, the Office of the Federal Register publishes separately a List of CFR Sections Affected (LSA), which lists parts and sections affected by documents published since the revision date of each title.

3 CFR

The President

Proclamations:

5331.....18445
5332.....18447
5333.....18451
5334.....18627
5335.....19517
5336.....20191
5337.....20193
5338.....20195
5339.....20543
5340.....20881
5341.....20883
5342.....20885
5343.....21229
5344.....21231
5345.....21233
5346.....21793
5347.....22967

Executive Orders:

6206 (Amended by PLO 6604).....20212
10820 (Revoked by EO 12514).....20383
11888 (Amended by EO 12515).....20385
12348 (Revoked by EO 12512).....18453
12493 (Amended by EO 12516).....21417
12511.....18449
12512.....18453
12513.....18629
12514.....20383
12515.....20385
12516.....21417
12517.....23105

5 CFR

831.....20064, 21031

Proposed Rules:

530.....21266
536.....20422

7 CFR

210.....20545
220.....20545
226.....19305, 20197
250.....20197
272.....20547
273.....20547
274.....20547
277.....20547
282.....20547
301.....19313, 20887
415.....22969
417.....22969
418.....22969
419.....22969
427.....22969
429.....22969
430.....22969
800.....18985
810.....18455
907.....19519
908.....18814, 19519, 20085, 20887, 21795
910.....18979, 19667, 20739, 21581, 23261
911.....18849, 20888
915.....21031, 21033
918.....19321
925.....18849
929.....23107
944.....18849, 21031, 21033
981.....19161
989.....18631
1032.....18459
1106.....18460
1124.....21581
1924.....21035
1965.....21583

Proposed Rules:

Ch. IV.....21060
6.....20220
21.....21712
52.....18865, 19183
226.....20572
319.....19158
417.....23017
911.....19535
981.....21853
1006.....23021
1007.....23021
1011.....23021
1012.....23021
1013.....23021
1040.....18677
1046.....23021
1093.....23021
1094.....23021
1096.....23021
1097.....23021
1098.....23021
1099.....23021
1106.....21267
1124.....18495
1207.....19026
1423.....19026
1942.....21069

8 CFR

103.....20389
238.....19322

9 CFR

51.....19162
72.....21795
78.....19163
81.....21419
92.....19323
94.....20389

112.....20085
113.....20085, 21798
145.....19897
147.....19897
166.....18632
307.....19990
310.....19900
317.....19903, 21420
318.....19903–19905
327.....19906
381.....19906, 21420

Proposed Rules:

75.....23137
85.....23138
92.....18865, 21070
309.....20796
310.....20796
327.....19029

10 CFR

1.....20741, 21036
2.....18852
9.....20889
50.....18852, 19323, 20892
51.....21036
110.....20742

Proposed Rules:

Ch. I.....20913
2.....21072, 23138
30.....23025
40.....19695, 23025
50.....20574, 20799, 23025
51.....23025
70.....19695, 23025
72.....23025
150.....19695
430.....21450
904.....20732
1039.....21712

11 CFR

Proposed Rules:

110.....18678
111.....21077

12 CFR

7.....19324
268.....18768
303.....22970
304.....22970
347.....22970
535.....19325
561.....20550
563.....20550
563b.....20390, 20555
563c.....20395
569.....20555
584.....19329
611.....20396
612.....20744
617.....20091
701.....20744
703.....20894
741.....20745
745.....20894
790.....20894

Proposed Rules:

5.....19183, 20800
226.....20221
545.....20422
563.....20422
564.....19030, 19185
571.....20422
615.....19379

13 CFR

306.....20746
309.....20746

14 CFR

39.....18853–18857, 19332, 19333, 19667–19669, 19908, 20198–20200, 20403, 20895, 20896, 21037, 21583–21586, 22985, 22986, 23108, 23109
61.....19290
71.....18857, 18858, 18989, 19334, 19670, 19671, 19909, 20091–20093, 20200, 20404, 20558, 20559, 20897, 20898, 21038, 21235
97.....19520, 21039
1201.....21235

Proposed Rules:

Ch. I.....18869
Ch. III.....19280
23.....19108
39.....18870–18875, 19033, 23026
20225, 20430, 20915, 21620, 21622
71.....18877, 19380, 19950, 19951, 20105, 20916, 20917, 21623
75.....19380, 20106
91.....19108, 19381
103.....20432
1208.....21712

15 CFR

90.....18989
371.....23110
373.....21562, 23111
376.....18461
377.....19521, 19522
379.....18858, 23110
399.....18461, 18858, 21800, 23110, 23111
2007.....19671

Proposed Rules:

11.....21712

16 CFR

13.....19334, 21587, 21588, 21801
239.....18462, 20899
444.....19335
455.....18471, 20094

Proposed Rules:

Ch. II.....23139
13.....19536, 19697, 20107, 20432
303.....21854, 21855
443.....21454
455.....21269
702.....18495
1032.....19699

17 CFR

4.....18858
12.....19910
140.....18858
210.....18990
229.....18990
230.....18990, 19010
239.....18990, 19010
240.....18990, 20201
249.....18990, 21423
271.....19339
276.....19339

Proposed Rules:

12.....19951
210.....19035
230.....21282
231.....19035
239.....21282
240.....19196
241.....19035
250.....21080
270.....20227, 21282
274.....21282
275.....18500

18 CFR

Ch. IV.....23113
4.....21589
8.....20095
37.....21802
141.....19912
271.....21041
375.....21426
282.....23112
385.....21589, 21597
389.....19912

Proposed Rules:

45.....21304
260.....20109
271.....21454

19 CFR

4.....20900, 21427, 21429
19.....21429
24.....21431, 21832
103.....21429
111.....21429
112.....21429
152.....21429
159.....21429
162.....21429
174.....21429
175.....21429
176.....21429
177.....21429

Proposed Rules:

24.....21455
101.....23027
115.....20227

20 CFR

260.....19523
320.....19523
404.....19164, 20901, 21433
416.....19164, 21433

Proposed Rules:

416.....21457

21 CFR

5.....19341
73.....20405
81.....20408
146.....19524
177.....20560, 20747, 21833, 22987
178.....21041, 21834–21836, 23118
179.....18859
182.....19164, 21042, 21043
184.....19164, 21042, 21043
314.....21237
431.....19917
436.....19917
440.....19917, 22987
442.....19917
444.....19917, 22987
446.....19917
448.....19917
449.....19917
450.....19675, 19917
452.....19917, 20203
453.....19917
455.....19917
460.....19917
510.....21045, 23118
520.....19167, 19168, 21238
524.....19168
536.....19917
539.....19917
540.....19917, 21045
544.....19917
546.....19917
548.....19917
555.....19917
556.....18471
558.....18471, 18859, 18860, 19169, 19525, 20204, 20408, 21439, 21440, 21601, 21837
561.....20370
866.....20344, 20351
1308.....23118

Proposed Rules:

Ch. I.....21460, 21857
Ch. I, Subch. C.....20233
74.....19538
201.....19382
334.....20235
1308.....23144

22 CFR

307.....20902
1501.....18860
1503.....18634

Proposed Rules:

1502.....18678
1504.....18878

23 CFR

645.....20344, 20351

Proposed Rules:

1309.....20438
625.....21857
655.....21857

24 CFR

200.....20096
201.....19341
203.....19341, 19923, 19924, 20096, 20903
213.....20903
226.....19924
232.....18472, 21602
234.....19341, 19924, 20903
235.....18472, 20903, 21602
941.....19927

Proposed Rules:

25.....18680, 20235
42.....21712
43.....21712
200.....18680
203.....18680, 20235
205.....18680, 20235
207.....18680
213.....18680, 20235
221.....18680, 20235
227.....18680
232.....18680
234.....18680
242.....18680
244.....18680, 20235

25 CFR

Proposed Rules:

31.....19701

26 CFR

1.....18473, 18861, 19343,

19344, 20748, 20755, 21046, 21239
5 ..... 18473, 21046
6a 19344
41 21243
48 21243
53 20755
301 20755
602 ..... 18473, 19344, 21239, 21243

Proposed Rules:
1 ..... 18884, 19383, 20748, 20755, 20800, 20802, 20918, 21308, 21860
51 21860

27 CFR
9 ..... 20409, 20560, 21440
19 20098
20 20098
22 20098
200 20098
250 20098

Proposed Rules:
4 19384

28 CFR
0 20908
33 22987

Proposed Rules:
51 19122

29 CFR
1956 21046
2619 20205

Proposed Rules:
12 21712
2620 19386

30 CFR
401 23113
56 20099
57 20099
270 21047
901 21254
914 ..... 19929, 20206, 20413
915 21440
917 22999
918 19931
935 ..... 21256, 21257

Proposed Rules:
216 21460
701 19037
736 19037
740 19037
746 19037
750 19037
772 19037
901 19390
902 21625
913 18536
916 19953
931 19356
935 18885
943 19212
946 19357
948 21861

31 CFR
103 ..... 18478, 21837
540 19890

Proposed Rules:
128 19702

32 CFR
199 ..... 23120, 23121
544 20209
706 ..... 20100, 21442
841 20563
1903 19154

Proposed Rules:
169 18886
169a 19703
199 18888
218 19538
259 21712

33 CFR
100 ..... 19526, 19931, 20416, 20566, 20909, 21259, 21603
110 18635
117 ..... 18479, 18635, 19526, 19527, 19932, 20758, 20759, 21604
165 ..... 18635, 19528, 19933, 21260, 21261
166 21261
183 18636
402 21263

Proposed Rules:
100 ..... 18688–18692, 19954, 20443, 20444, 20802, 21308, 21625
110 21310
117 ..... 19955, 20918, 21627
140 20445
141 20445
142 20445
143 20445
144 20445
145 20445
146 ..... 20445, 21862
175 21862
181 21862
183 21311
325 21311

34 CFR
280 21190
690 ..... 19296, 19302

Proposed Rules:
15 21712
76 19146
396 21186
500 21578
503 21766
548 21766
581 19146
768 20522
769 20522
770 20522
771 20522
772 20522

35 CFR
101 19676
107 19676
111 19676
113 19676
123 19676

Proposed Rules:
256 ..... 19539, 23028

36 CFR
7 19880
13 19880
1236 20759
1253 20759

Proposed Rules:
7 ..... 19545–19547, 20111
8 ..... 19548, 20803, 23028
904 21712
1200 21461
1202 21461
1220 21218
1222 21218
1224 21218
1228 21218
1230 21218
1232 21218
1234 21218
1238 21218
1250 21461

37 CFR
1 23122
308 18480

38 CFR
17 21604
21 ..... 19933, 21604, 21606
36 21837

Proposed Rules:
3 20445
21 ..... 21624, 23145
25 21712

39 CFR
111 20567

Proposed Rules:
10 23146
777 21752
3001 21628

40 CFR
32 20210
52 ..... 18482–18484, 19529, 19530, 19682, 20568, 21049, 23003, 23004
60 ..... 18636, 19022
65 20760
81 ..... 18485, 19530
180 ..... 18485, 19358, 19531, 20211, 20371, 21050, 21838, 23009
260 21607
271 23008
439 18486
712 ..... 18861, 20760, 20909
716 ..... 18861, 20760, 20909
790 20652
799 ..... 20652, 21398

Proposed Rules:
4 21712
12 19136
51 21629
52 ..... 18537, 18693, 18889, 19038, 19548, 20918, 21085, 21629, 21863, 23028–23032
60 ..... 19725, 20446, 21863
65 ..... 19550, 20453–20458 21869–21874
81 ..... 18890, 19038, 21629
110 21876
141 20164
180 ..... 20235, 20237, 21876
261 ..... 18622, 19550, 19956, 20238, 20239
266 19956
268 23250
280 21772
403 19664
721 19039
798 20678
799 ..... 19213, 20678, 20691, 21413

41 CFR
101–41 20101
101–6 21712
101–18 21712
105–51 21712
114–50 21712
128–18 21712

42 CFR
400 19684
405 19684
417 20570
431 ..... 21839, 23009
447 ..... 19684, 23009

Proposed Rules:
403 20048
405 21026
412 21026
430 23147

43 CFR

Public Land Orders:
6602 18487
6603 19690
6604 20212
6605 ..... 21443, 23124
6606 21443

Proposed Rules:
4 21470
3040 18614
3100 18614
3130 18614
3200 18614
3500 23150
3510 23150
3520 23150
3530 23150
3540 23150
3550 23150
3560 23150
3570 23150
3580 23150
8200 23034

44 CFR
55 18487
56 18487
57 18487
64 19690–19692
67 ..... 19022, 19024

Proposed Rules:
5 19551
6 19551
25 21712
61 20803
67 ..... 19039, 19044, 23036
205 ..... 19870, 21085

45 CFR
301 19608
302 19608
303 19608
304 19608
305 19608
307 19608

Proposed Rules:
15 21712
30 18694
201 ..... 18704, 23147
233 21472

46 CFR
30 ..... 21166, 21878
33 21878
35 21878
45 19532
151 21166

153 21166
276 ..... 19170, 20102
580 20103

Proposed Rules:

25 21878
26 21878
56 20460
58 20460
70 21878
75 21878
78 21878
90 21878
94 21878
97 21878
107 20460
108 ..... 20460, 21878
109 ..... 20460, 21878
111 20460
160 21878
167 21878
174 20460
175 21878
176 21878
180 21878
185 21878
188 21878
192 21878
196 21878
254 21474
516 19727

47 CFR

0 ..... 18487, 21264
1 ..... 18637, 19359, 21264
2 ..... 18662, 20911
22 ..... 20760, 23125
43 21607
63 18637
69 19025
73 ..... 18818, 19936, 21444, 21616
76 18637
78 18637
83 18489
87 20911
97 ..... 18662, 18665, 19361

Proposed Rules:

Ch. I 18537, 19050
0 19392
1 ..... 18705, 18706
2 ..... 19956, 21903
15 ..... 19551, 21903
22 ..... 21903, 21904
25 ..... 19413, 21903
31 ..... 19421, 21910
33 21910
42 21910
43 ..... 18705, 18706, 21910
73 ..... 19392, 19956, 21475, 21630–21632, 23150
74 19555
76 18538
90 ..... 19956, 21903

48 CFR

232 18666
252 18666
301 23126
304 23126
305 23126
306 23126
307 23126
313 23126
314 23126
315 23126
316 23126
319 23126
323 23126
332 23126
333 23126
337 23126
342 23126
352 23126
370 23126
525 20103
552 20103
1301 19361
1302 19361
1304 19361
1305 19361
1306 19361
1314 19361
1315 19361
1319 19361
1331 19361
1337 19361
1353 19361
1805 20417
1810 20417
1815 20417
1817 20417
1852 20417

Proposed Rules:

Ch. 5 18708
Ch. 44 18802
3 23157
52 21313
915 21087
952 21087
1832 23159
1852 23159

49 CFR

23 18493
25 21852
173 ..... 18667, 21051
175 18667
571 ..... 21052, 21619
1011 20773
1033 ..... 21264, 21265
1039 20419
1161 20773
1171 20773
1245 23013

Proposed Rules:

Ch. V 18708
171 23036
173 23036
541 19728
567 19728
571 ..... 19744, 19961–19966, 20113, 20919, 21090, 21313, 23041
1039 19558
1051 21094
1132 21319
1175 19424
1241 ..... 18539, 18891
1312 ..... 20920, 21636

50 CFR

17 ..... 19370–19374, 20212, 20777, 21784
20 19178
80 21445
285 20420
611 19946
652 ..... 20215, 23014
655 ..... 20103, 20215
658 20912
661 ..... 18672, 20570, 21449
663 ..... 18668, 20420
671 19948
672 ..... 19946, 20795, 21852
675 19946
681 20103

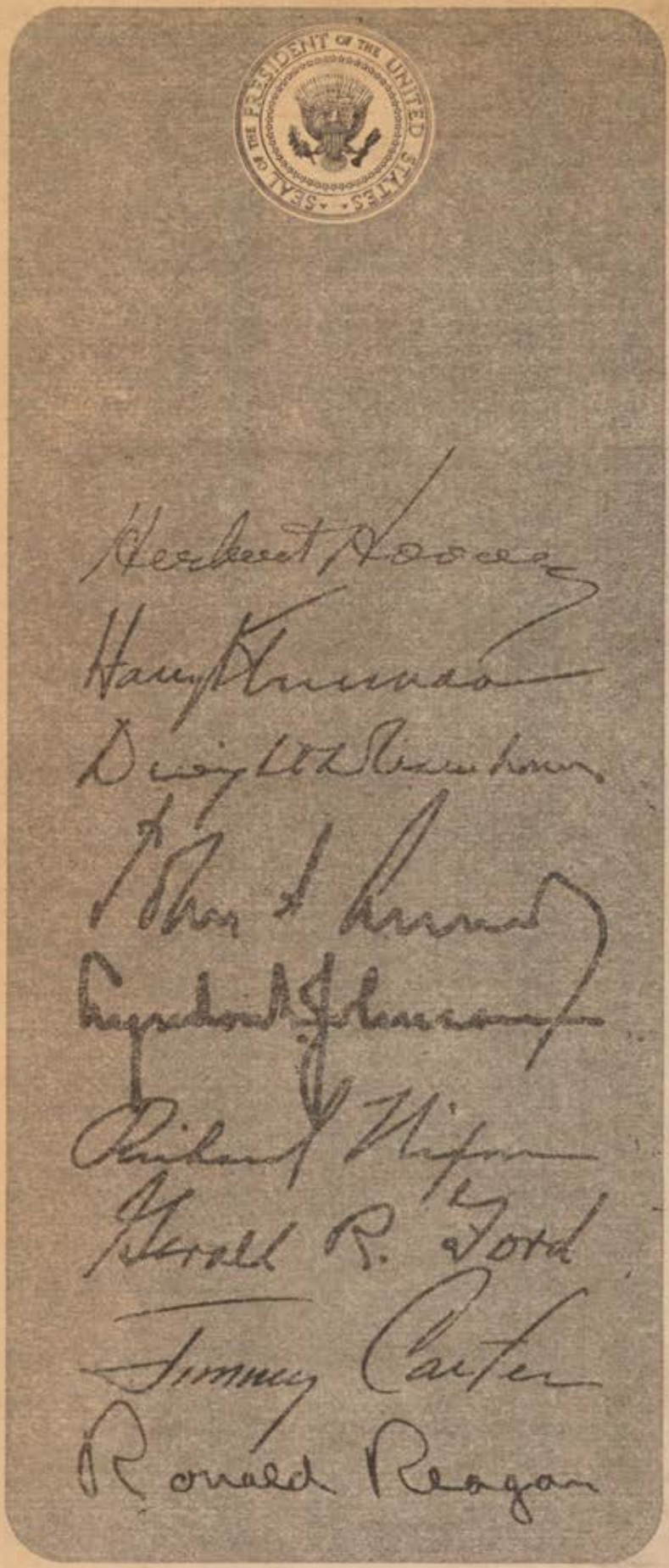
Proposed Rules:

17 ..... 18893, 18968, 19761, 20461, 20806–20814, 21095
20 19268
29 20814
32 ..... 20462, 21320
33 ..... 20462, 21320
216 18713
611 23159
630 ..... 18717, 23159
642 19558
652 21910
663 20470
669 19559
682 ..... 18983, 19764

LIST OF PUBLIC LAWS

Note: No public bills which have become law were received by the Office of the Federal Register for inclusion in today's **List of Public Laws.**

Last List May 30, 1985



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